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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

GREE, INC.,	) (	CIVIL ACTION NOS.
	) (	2:19-CV-70-JRG-RSP
PLAINTIFFS,	) (	2:19-CV-71-JRG-RSP
	) (	
VS.	) (	
	) (	MARSHALL, TEXAS
SUPERCELL OY,	) (	SEPTEMBER 15, 2020
	) (	8:30 A.M.
DEFENDANTS.	) (	

TRANSCRIPT OF JURY TRIAL  
VOLUME 7 - MORNING SESSION  
BEFORE THE HONORABLE JUDGE RODNEY GILSTRAP  
UNITED STATES CHIEF DISTRICT JUDGE

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(Proceedings recorded by mechanical stenography, transcript  
produced on a CAT system.)

P R O C E E D I N G S

(Jury out.)

COURT SECURITY OFFICER: All rise.

THE COURT: Be seated, please.

All right. Before the parties read into the record the items from the list of pre-admitted exhibits used during yesterday's portion of the trial, I'd like to clarify for the record that there appear to be technically, although I think everyone understands they're no longer operative, but technically there are unresolved objections to the Magistrate Judge's orders on motions in limine, being Document No. 425, 426, and 427 in the 70 case; and Documents 311, 312, and 313 in the 71 case.

Those objections and all objections to the orders on motions in limine entered by the Magistrate Judge are overruled.

All right. Now, let me hear from the parties as to the items from the list of pre-admitted exhibits used yesterday.

MR. MOORE: Thank you, Your Honor. Ms. Koballa will come to the podium and read them.

MS. KOBALLA: Good morning, Your Honor.

THE COURT: Good morning, please proceed.

MS. KOBALLA: PTX-61, PTX-72, PTX-73, PTX-74, PTX-87, PTX-97, PTX-105, PTX-106, PTX-107, PTX-355,

08:33:48 1 PTX-356, PTX-357, PTX-358, PTX-359, PTX-360, PTX-361,  
08:34:03 2 PTX-362, PTX-363, PTX-364, PTX-365, PTX-366, PTX-367,  
08:34:19 3 PTX-368, PTX-369, PTX-370, PTX-371, PTX-372, PTX-373,  
08:34:33 4 PTX-374, PTX-375, PTX-376, PTX-377, PTX-378, PTX-379,  
08:34:48 5 PTX-380, PTX-381, PTX-382, PTX-383, PTX-384, PTX-385,  
08:35:01 6 PTX-386, PTX-387, PTX-388, PTX-389, PTX-390, PTX-391,  
08:35:17 7 PTX-426, PTX-427, PTX-428, PTX-429, PTX-430, PTX-431,  
08:35:28 8 PTX-432, PTX-433, PTX-434, PTX-435, PTX-436, PTX-437,  
08:35:41 9 PTX-438, PTX-439, PTX-440, PTX-441, PTX-442, PTX-443,  
08:35:54 10 PTX-444, PTX-451, PTX-607, PTX-625, PTX-634, PTX-637, and  
08:36:09 11 PTX-689.

08:36:11 12 THE COURT: All right. Is there objection to that  
08:36:13 13 rendition?

08:36:14 14 MR. DACUS: No objection, Your Honor.

08:36:16 15 THE COURT: Do Defendants have a similar rendition  
08:36:18 16 to offer into the record?

08:36:19 17 MR. SACKSTEDER: Good morning, Your Honor. Yes,  
08:36:20 18 we do. Chris Larson will read the exhibits into the  
08:36:23 19 record.

08:36:24 20 THE COURT: All right. Please proceed.

08:36:26 21 MR. LARSON: Thank you, Your Honor.

08:36:32 22 The list of exhibits are DX-33, DX-34, DX-35,  
08:36:41 23 DX-36, DX-47, DX-215, DX-232, DX-1190, DX-1221, DX-1223,  
08:36:56 24 DX-1232, DX-1234, DX-1236, PTX-76, PTX-131, PTX-139,  
08:37:10 25 PTX-142, PTX-150, and PTX-480. Thank you.

08:37:15 1 THE COURT: All right. Is there objection from  
08:37:17 2 Plaintiff?

08:37:18 3 MR. MOORE: No, Your Honor, no objection.

08:37:20 4 THE COURT: All right. Either party have anything  
08:37:28 5 before I bring in the jury and we proceed with the next  
08:37:31 6 defense witness?

08:37:31 7 MR. MOORE: Nothing from the Plaintiff,  
08:37:33 8 Your Honor.

08:37:33 9 MR. DACUS: Nothing from the Defendant,  
08:37:34 10 Your Honor.

08:37:34 11 THE COURT: Let's bring in the jury, please.

08:37:36 12 COURT SECURITY OFFICER: Yes, sir.

08:37:37 13 All rise.

08:37:41 14 (Jury in.)

08:37:41 15 THE COURT: Good morning, members of the jury.  
08:38:06 16 Please be seated.

08:38:07 17 Defendant, call your next witness.

08:38:14 18 MR. SACKSTEDER: Good morning, Your Honor.  
08:38:17 19 Supercell calls Eino Joas by trial deposition video.

08:38:23 20 THE COURT: Would you identify this individual for  
08:38:25 21 us?

08:38:25 22 MR. SACKSTEDER: He is an employee of Supercell.

08:38:27 23 THE COURT: All right. Let's proceed with the  
08:38:28 24 witness by deposition.

08:38:32 25 (Videoclip played.)

08:38:33 1 QUESTION: Good morning, Mr. Joas. Can you please  
08:38:39 2 state your full name for the jury?

08:38:41 3 ANSWER: Eino Joas.

08:38:42 4 QUESTION: Where are you testifying from today?

08:38:44 5 ANSWER: I'm testifying from Helsinki, Finland.

08:38:46 6 QUESTION: Why were you not able to testify in  
08:38:49 7 person with the jury today?

08:38:50 8 ANSWER: Well, unfortunately, due to COVID --  
08:38:57 9 situation with COVID at the moment, Finnish residents are  
08:39:01 10 not permitted to travel to the United States at the present  
08:39:01 11 time.

08:39:06 12 QUESTION: Thank you. And where do you work now?

08:39:08 13 ANSWER: I work at Supercell.

08:39:09 14 QUESTION: How long have you worked there?

08:39:11 15 ANSWER: Just about four years.

08:39:14 16 QUESTION: What is your title at Supercell?

08:39:17 17 ANSWER: My current title at Supercell is game  
08:39:19 18 lead of Clash of Clans.

08:39:20 19 QUESTION: What is a game lead?

08:39:22 20 ANSWER: Well, game lead is someone at Supercell  
08:39:29 21 who is responsible for the wellbeing and functionality of  
08:39:31 22 the team so the team functions well and also that the team  
08:39:34 23 keeps moving and keeps developing stuff for our games.

08:39:38 24 QUESTION: How long have you been game lead of  
08:39:40 25 Clash of Clans?

08:39:40 1 ANSWER: Just over three years.

08:39:47 2 QUESTION: And why did you join Supercell in the  
08:39:50 3 first place?

08:39:50 4 ANSWER: Well, I -- when I joined -- before I  
08:39:52 5 joined Supercell, I was, of course, familiar with the games  
08:39:55 6 that Supercell has made because they're very well-known and  
08:39:57 7 very successful, but I think what really drew me to  
08:40:00 8 Supercell is the independent teams and the kind of full  
08:40:04 9 responsibility the teams -- the teams get.

08:40:07 10 QUESTION: Okay. Let's take a step back. Can you  
08:40:10 11 explain to the jury what Clash of Clans is?

08:40:11 12 ANSWER: Sure. So Clash of Clans is a mobile  
08:40:16 13 video game, and it's a game that sort of -- has elements  
08:40:21 14 from tower defense and strategy games. And if you want to  
08:40:24 15 really kind of boil it down, it's a build and battle game.

08:40:28 16 So you build a village that's your own village,  
08:40:30 17 and then you start the village. You also train troops and  
08:40:34 18 build Armies and you use those Armies to attack other  
08:40:37 19 players, steal some loot from them, and use that loot to  
08:40:40 20 build your village further, build and battle.

08:40:44 21 QUESTION: When was Clash of Clans released in  
08:40:46 22 United States?

08:40:47 23 ANSWER: In 2012.

08:40:49 24 ATTORNEY: And, Mr. Smith, can you please pull up  
08:40:52 25 the first demonstrative slide?



08:40:54 1 QUESTION: Mr. Joas, can you please explain what  
08:40:57 2 this is?

08:40:58 3 ANSWER: Sure. So this is a village of an early  
08:41:01 4 game village, including the orange building in the middle,  
08:41:04 5 the biggest one, that's your town hall, which is sort of  
08:41:04 6 the main building in the village.

08:41:08 7 And then in addition to that, you have things like  
08:41:10 8 resource collectors that you use to get resources, some  
08:41:13 9 storages, and then also defenses like the canons there in  
08:41:18 10 the middle of the screen.

08:41:18 11 And then, in addition, you have also the Army  
08:41:21 12 buildings, so buildings to train your troops and house  
08:41:27 13 them.

08:41:28 14 ATTORNEY: Mr. Smith, can you please pull up the  
08:41:31 15 next demonstrative slide? Next slide.

08:41:32 16 QUESTION: And, Mr. Joas, what are we seeing here?

08:41:35 17 ANSWER: So now we're actually looking at the --  
08:41:38 18 the -- your kind of growth of your village over time.

08:41:40 19 So as you advance in the game, you level up your  
08:41:43 20 town hall, the main building of your village, and then that  
08:41:46 21 gives you access to new things to do, new toys to play  
08:41:51 22 with, new ways to kind of attack other players in the game,  
08:41:56 23 and new ways to have fun.

08:41:59 24 And, yeah, in turn, the village sort of -- as you  
08:42:02 25 can see, like it turns from this quaint little village to

08:42:07 1 this kind of very intimidating fortress style of a  
08:42:11 2 structure. So when you get to the end of the game, you're  
08:42:15 3 very powerful, and your village is also very big and  
08:42:17 4 strong.

08:42:18 5 ATTORNEY: And the next slide, please, Mr. Smith.

08:42:20 6 QUESTION: Mr. Joas, you mentioned attacking other  
08:42:24 7 villages. What do you mean by that?

08:42:26 8 ANSWER: So one of the important things that you  
08:42:27 9 can do in the games -- one of the main activities as a  
08:42:30 10 player is that you can train Armies and use those to attack  
08:42:34 11 other players.

08:42:34 12 And the goal of those attacks is to steal some  
08:42:38 13 loot from other players and kind of get some fame and  
08:42:41 14 glory. And you do this by training an Army, bringing that  
08:42:44 15 to the battle, and then you tap on the edges of the  
08:42:48 16 villages to deploy the units.

08:42:48 17 Here you can see that this player has deployed a  
08:42:52 18 lot of yellow-haired barbarians. Also, some dragons are  
08:42:54 19 flying in the sky. So it's a very colorful Army, and  
08:42:57 20 they're going full at it attacking the enemy village and  
08:43:02 21 trying to get the loot.

08:43:03 22 And then you also in the lower -- lower part, you  
08:43:06 23 have the troop bar. There you can also see some heroes and  
08:43:10 24 some spells that you can use to help you in the attack.

08:43:12 25 QUESTION: I'd like to show you a portion of the

08:43:15 1 video from Plaintiff's Exhibit No. 159.

08:43:17 2 Can you tell me what's happening in this slide?

08:43:21 3 ANSWER: Sure. So here we have a player attacking  
08:43:26 4 a village with Valkyries.

08:43:28 5 So Valkyries are this red-headed warrior that do a  
08:43:32 6 spinning attack. And they're doing a great job. I think  
08:43:35 7 the village is going to get destroyed. Actually, this was  
08:43:38 8 a perfect attack. So all the buildings were destroyed and  
08:43:42 9 all the loot was gained.

08:43:43 10 QUESTION: I'd now like to show you a slide from  
08:43:46 11 Plaintiff's Exhibit No. 33.

08:43:48 12 First off, what -- what is this slide from, and  
08:43:53 13 can you tell me what's in this slide?

08:43:56 14 ANSWER: So this is from my presentation at game  
08:43:59 15 developer's conference earlier this year, and this slide is  
08:44:02 16 an explanation of the core activities of Clash of Clans.

08:44:05 17 And sort of in the vein that I've just  
08:44:09 18 mentioned -- mentioned, the kind of main thing you do in  
08:44:12 19 the game is you build your village, you train Armies,  
08:44:16 20 and that -- you can see at the bottom of the screen.

08:44:19 21 Then you take those Armies into battle where you  
08:44:22 22 earn some gold and Elixir, and then you bring those  
08:44:24 23 resources back to your village, invest them, again, to  
08:44:28 24 building stronger buildings, training stronger Armies.

08:44:32 25 Then in the middle, the harvesting resources bit,

08:44:37 1 that's sort of an additional way to gain these gold and  
08:44:39 2 Elixir resources. So you have collectors in your village  
08:44:40 3 that generate gold and Elixir over time there. And sort of  
08:44:45 4 that way you can also grow your village.

08:44:47 5 QUESTION: Okay.

08:44:49 6 ATTORNEY: Okay. And, Mr. Smith, you can pull  
08:44:51 7 down the demonstratives now.

08:44:52 8 QUESTION: Mr. Joas, can you explain to the jury  
08:44:54 9 why is the game called Clash of Clans?

08:44:56 10 ANSWER: Sure. So it's called Clash of Clans  
08:45:00 11 because clans is a social unit in the game, and it's --  
08:45:05 12 clans are something that players can form together and  
08:45:09 13 part -- take part in various activities together.

08:45:11 14 QUESTION: What -- what sort of things can players  
08:45:14 15 do with their clans?

08:45:15 16 ANSWER: They can chat with each other, they can  
08:45:19 17 strategize, they can fight wars against other clans, win  
08:45:27 18 something we call Clan Wars.

08:45:29 19 QUESTION: And let's take a step back to 2012 when  
08:45:32 20 you said the game was released.

08:45:34 21 What was the reaction in the United States when  
08:45:36 22 the game was released?

08:45:37 23 ANSWER: The game was a pretty much an  
08:45:40 24 immediate -- like an overnight hit, and it took the app  
08:45:45 25 charts by storm. So in the my -- U.S., for example,

08:45:48 1 there's this app ranking. I think Clash of Clans climbed  
08:45:51 2 to the very top of that, and we've stayed there for the  
08:45:54 3 past eight years pretty much. Like, we're still very  
08:45:59 4 frequently in the top 10.

08:46:00 5 QUESTION: So you've talked about the success of  
08:46:02 6 the game. What -- what makes the game, Clash of Clans, a  
08:46:06 7 success?

08:46:06 8 ANSWER: Well, it -- it might -- it can be a bit  
08:46:11 9 hard to kind of pinpoint on any one thing. I think the  
08:46:14 10 game has very -- like it has great graphics. It has a very  
08:46:18 11 elegant game design that's very easy to understand. And  
08:46:23 12 then the kind of themes of the game are very universal.

08:46:27 13 So you build your village, you use Armies to  
08:46:31 14 attack other villages, you steal gold from them, you use  
08:46:34 15 that to build your village. So it's very approachable in  
08:46:38 16 that sense.

08:46:38 17 But I think one sort of one really big  
08:46:40 18 contributing factor is that also that it's a game you can  
08:46:41 19 play for years. Since you invest in your village, that  
08:46:45 20 becomes very important to you, and you can actually -- you  
08:46:48 21 sort of get attached to it and stay with it for a long  
08:46:53 22 time. So, yeah, you can play for years.

08:46:54 23 QUESTION: I'd like to turn back now to  
08:46:56 24 Plaintiff's Exhibit No. 33.

08:46:58 25 Can you explain for the jury then what this is?

08:47:00 1 ANSWER: So this is another slide, I guess, from  
08:47:08 2 my presentation. This is an early loading screen, one of  
08:47:13 3 the earlier ones that we had. And it's depicting this --  
08:47:17 4 like sort of the field of the battle in Clash of Clans.

08:47:21 5 ATTORNEY: And, Mr. Smith, can you turn to the  
08:47:23 6 next slide from Plaintiff's Exhibit No. 33?

08:47:27 7 QUESTION: Mr. Joas, what is on this slide?

08:47:29 8 ANSWER: So, again, this is a slide from my  
08:47:31 9 presentation at the game developer's conference this year.  
08:47:34 10 And this slide -- this slide is about the success of Town  
08:47:39 11 Hall 13 launch, which was the latest town hall addition,  
08:47:43 12 the highest level that we just added to the game, late --  
08:47:47 13 late last year.

08:47:48 14 QUESTION: Says Town Hall 13. What does town hall  
08:47:52 15 refer to again?

08:47:52 16 ANSWER: So in -- at the very beginning, we had  
08:47:55 17 the quaint village with orange -- orange building in the  
08:47:59 18 middle. That's your town hall. And as you build up your  
08:48:02 19 village, the town hall is sort of the measuring stick of  
08:48:05 20 progress. And Town Hall 13 is the latest and most advanced  
08:48:09 21 level that we've added to the game. It's basically the  
08:48:12 22 max -- max level in the game at the moment.

08:48:15 23 ATTORNEY: Let's turn to the next slide of the  
08:48:17 24 presentation.

08:48:18 25 QUESTION: What's -- can you explain to the jury

08:48:20 1 what this slide is about?

08:48:21 2 ANSWER: Sure. Well, this is, again, saying --  
08:48:25 3 from the same presentation. This slide is about how the  
08:48:29 4 conversation of our player base has changed.

08:48:32 5 So we used to -- in the beginning of 2018, we had  
08:48:36 6 very few players on the max levels in the game, and we've  
08:48:40 7 changed that composition drastically. And when -- leading  
08:48:44 8 up to 2 -- December 2019, we went from -- I think it was  
08:48:50 9 10 -- around 10 percent to 35 percent being on the highest  
08:48:55 10 levels.

08:48:56 11 So the player-base nowadays in the game is way  
08:49:02 12 more balanced, and we have way -- way more people across  
08:49:05 13 the different levels, especially on the highest levels,  
08:49:08 14 which means that kind of there's more people always waiting  
08:49:11 15 for the newest town hall releases.

08:49:14 16 ATTORNEY: Let's turn back to the prior slide now.

08:49:16 17 QUESTION: At the top it says: Content is king.  
08:49:19 18 Why does it say that there?

08:49:20 19 ANSWER: Well, I was basically making a point here  
08:49:22 20 that content for us -- by content, as in releasing new town  
08:49:27 21 hall levels and releasing new buildings or releasing new  
08:49:31 22 troops. It is really kind of the soul of the game, and  
08:49:34 23 it's what drives -- drives everything in the game.

08:49:36 24 When we add new content, we get -- people start  
08:49:39 25 paying again, and then we get more revenue. And, overall,

08:49:43 1 I think it - we just make players really happy when we do  
08:49:47 2 that.

08:49:47 3 QUESTION: Can you give an example of a -- a  
08:49:49 4 release of a town hall that provided new content to the  
08:49:54 5 players?

08:49:54 6 ANSWER: Sure. So Town Hall 13, like this -- this  
08:49:58 7 slide -- that was the last one we did. That was in  
08:50:00 8 December 2019. And then the previous one, I guess, was  
08:50:05 9 Town Hall 12 in June 2018.

08:50:09 10 ATTORNEY: And, Mr. Smith, can you turn to the  
08:50:10 11 next slide?

08:50:12 12 QUESTION: Mr. Joas, what -- what is this slide  
08:50:14 13 here?

08:50:14 14 ANSWER: So this slide is sort of like -- it's  
08:50:17 15 showing the content that we released with Town Hall 12,  
08:50:22 16 which was the previous town hall level we released in June  
08:50:26 17 2018.

08:50:27 18 And on the right, you can see the different things  
08:50:31 19 we did, like we added a bunch of new things. We added a  
08:50:35 20 town hall that actually has a weapon inside of it. So when  
08:50:38 21 you attack it, it gets angry and shoots back. That was  
08:50:42 22 another mechanic that didn't exist in the game at the time.

08:50:45 23 Then we added electro dragon, which is the big  
08:50:49 24 dragon -- blue dragon unit in the middle. And then we  
08:50:52 25 added siege machines, which are sort of this, like,



08:50:54 1 battering ram, and this, like, balloons that you can  
08:50:55 2 actually use to get to the heart of the enemy -- enemy  
08:50:58 3 village, and also providing a novel gameplay.

08:51:02 4 And then the things on the side, we have the  
08:51:05 5 troops. So we added a bunch of new troop levels. And then  
08:51:08 6 on the right you can see different buildings we added.  
08:51:09 7 With the new town hall level, we always -- always bring  
08:51:12 8 also new buildings to the game. You can see some of the  
08:51:15 9 buildings we added there.

08:51:16 10 QUESTION: I'd like to now show you Plaintiff's  
08:51:22 11 Exhibit No. 446.

08:51:24 12 Please explain to the jury what this is.

08:51:31 13 ANSWER: Sure. So these are the release notes  
08:51:34 14 that we produce with every update. And this -- these  
08:51:37 15 release notes are particularly for the update in the  
08:51:41 16 previous slide, so Town Hall 12 update.

08:51:46 17 QUESTION: And what features were released with  
08:51:50 18 the Town Hall 12 update?

08:51:53 19 ANSWER: Sure. So the Town Hall 12 update as it's  
08:51:53 20 sort of highlights -- is highlighted here is what was about  
08:51:53 21 Town Hall 12.

08:51:56 22 And like I mentioned before, it was a big moment  
08:51:58 23 for the community. Whenever we release new content, it's a  
08:52:01 24 big deal. And at this point, it had been two-an-a-half  
08:52:04 25 years since Town Hall 11 was released. So there was

08:52:09 1 actually a lot of pinned-up demand for new things to play  
08:52:13 2 with.

08:52:13 3 So the town hall was the main dish. And then we  
08:52:16 4 had the siege workshops -- the siege machines that I also  
08:52:16 5 mentioned. And then I guess the new troop, the electro  
08:52:25 6 dragon. Then we had some building levels that I also  
08:52:29 7 mentioned. We had troop levels. I think -- I guess we had  
08:52:34 8 a bunch of quality of life changes.

08:52:38 9 QUESTION: Right. You mentioned quality of life  
08:52:40 10 features. Let's turn to Page 4 of the exhibit.

08:52:43 11 What -- first off, what are quality of life  
08:52:47 12 changes?

08:52:48 13 ANSWER: So quality of life changes are sort of  
08:52:50 14 these small things that we do with every update, usually  
08:52:54 15 wishes from the community, small things that make the game  
08:52:57 16 a bit more convenient to play and remove some friction from  
08:53:02 17 the lives of players.

08:53:03 18 QUESTION: What quality of life changes were  
08:53:05 19 implemented with this update?

08:53:07 20 ANSWER: Sure. So in this update, we gave the  
08:53:09 21 players the ability to change it -- change their name by  
08:53:12 22 using gems.

08:53:14 23 Previously, they just could do it once. We did  
08:53:17 24 some clan improvements. Sort of clans would get into a  
08:53:21 25 state of being without a leader. We implemented clan

08:53:26 1 castle sleep mode so that you could actually protect your  
08:53:29 2 clan castle troops and not lose them in a defense.

08:53:29 3 And then we did the copy village layout feature  
08:53:29 4 that allows you to copy a village layout from your clan  
08:53:29 5 mate.

08:53:37 6 And then we did a bunch of improvements to clan  
08:53:41 7 games, which is an event that we have in the game.

08:53:44 8 QUESTION: You mentioned the copy village layout  
08:53:48 9 feature. What is the copy layout feature?

08:53:52 10 ANSWER: The copy village -- village layout  
08:53:57 11 feature is a feature that allows you to -- when you're  
08:54:01 12 visiting your clan mate's village, it allows you to copy to  
08:54:06 13 one of your own village layout slots and then use it for  
08:54:09 14 yourself.

08:54:10 15 QUESTION: And I'd like to turn to the next  
08:54:13 16 demonstrative slide, as well.

08:54:15 17 What is the layout editor feature?

08:54:19 18 ANSWER: The layout editor feature is a toolkit  
08:54:25 19 that allows -- has tools to -- for editing your village.  
08:54:29 20 And then it also allows saving and loading village lots.

08:54:34 21 So if you would want to sort of have different  
08:54:37 22 kinds of village layouts, layout editor allows you to do  
08:54:43 23 that with ease.

08:54:43 24 QUESTION: How is the copy layout feature  
08:54:45 25 different from the layout editor?

08:54:46 1           ANSWER: And so the layout editor is a suite of  
08:54:50 2 tools that you use to edit your village layouts. A copy  
08:54:55 3 layout feature is something where when you visit a clan  
08:54:57 4 mate, you can actually take a layout that they made and  
08:55:01 5 then save it into one of your empty layout slots that you  
08:55:04 6 have in the layout editor.

08:55:05 7           QUESTION: And turning back to the -- the copy  
08:55:09 8 layout editor layout feature, what would players do to copy  
08:55:16 9 other player's bases before the copy layout feature was  
08:55:16 10 implemented?

08:55:17 11           ANSWER: So they would simply visit the villages,  
08:55:21 12 and then usually take a screenshot and then just use the  
08:55:25 13 layout editor to build that layout themselves.

08:55:27 14           QUESTION: I'd like to discuss a slightly  
08:55:32 15 different issue now, and that is revenue. How does  
08:55:35 16 Supercell make revenue?

08:55:36 17           ANSWER: Sure. So we mainly make revenue by  
08:55:42 18 selling something we call gems. Gems are virtual currency  
08:55:46 19 that you can actually use to get either resources like gold  
08:55:49 20 and Elixir that I mentioned before.

08:55:51 21           Those are used to upgrade your things in the  
08:55:53 22 village and make your village stronger. And in Clash of  
08:55:59 23 Clans, everything you start building has a timer, so you  
08:56:02 24 can use gems to skip those timers.

08:56:07 25           QUESTION: What does Supercell charge to use the

08:56:10 1 copy layout feature?

08:56:10 2 ANSWER: We don't charge anything to use the copy  
08:56:14 3 layout feature. The copy layout feature is completely  
08:56:16 4 free.

08:56:16 5 QUESTION: We talked about several updates, the  
08:56:23 6 Town Hall 12 update. How, if at all, is revenue tied to  
08:56:26 7 updates?

08:56:27 8 ANSWER: Revenue is tied to updates because the  
08:56:29 9 main thing that we sell is progression and content to the  
08:56:33 10 players.

08:56:33 11 So whenever we -- we release new content in the  
08:56:36 12 form of updates, then usually we have a group of players  
08:56:42 13 that already have sort of reached the maxed-out state.

08:56:48 14 Like I mentioned with Town Hall 12, it had been  
08:56:48 15 two-and-a-half years since the previous update. And that  
08:56:48 16 meant that there were actually a lot of players on Town  
08:56:51 17 Hall 11 who were anxiously awaiting for new content, and  
08:56:54 18 they didn't have anything to spend on -- at that point.

08:56:58 19 So whenever we release new content and a new town  
08:57:03 20 hall level that gives you new buildings and new troops and  
08:57:06 21 everything, then that demand gets a release, and people can  
08:57:09 22 start progressing again and spending money again. And  
08:57:13 23 that, of course, feeds heavily into revenue.

08:57:15 24 QUESTION: What other features have had a similar  
08:57:17 25 impact?

08:57:17 1 ANSWER: Then in a different -- sort of different  
08:57:20 2 vein, I think the gold path feature that we implemented  
08:57:24 3 in -- I think it was April 2019, had a very positive impact  
08:57:30 4 on revenue.

08:57:31 5 And it did so through -- like it offered some  
08:57:34 6 unique things like unique hero skins. And then also it was  
08:57:38 7 an unbeatable value proposition in terms of, like, getting  
08:57:42 8 progression at a very low price point. And I think through  
08:57:46 9 that, we succeeded in sort of widening our appeal to  
08:57:49 10 different players.

08:57:50 11 QUESTION: What, if any, relationship does gold  
08:57:53 12 pass have with the copy layout feature?

08:57:55 13 ANSWER: No relationship at all.

08:58:03 14 QUESTION: Okay. I'd like to talk about the  
08:58:05 15 present lawsuit. And if we can talk about the -- the  
08:58:08 16 slide -- Plaintiff's Exhibit 33?

08:58:13 17 ATTORNEY: Mr. Smith, if you can pull up  
08:58:16 18 Plaintiff's Exhibit 33, please.

08:58:17 19 QUESTION: And, Mr. Joas, can you please explain  
08:58:20 20 what this is, please?

08:58:20 21 ANSWER: Sure. This is in my presentation at the  
08:58:24 22 game developer's conference. I talked about the gold pass  
08:58:30 23 and how -- what made that successful. And these were the  
08:58:30 24 things that I mentioned.

08:58:37 25 We had a very good value proposition where we

08:58:37 1 loaded up the gold pass with so much value that it would be  
08:58:41 2 hard to refuse. It's something that you can get only once  
08:58:45 3 per month, so we were comfortable with giving this extra  
08:58:49 4 value at a lower -- lower price point. And that, of  
08:58:51 5 course, is appealing to those users or players who don't  
08:58:54 6 have that much money to spend. So this was for them.

08:58:56 7 And then we also had exclusive cosmetics, so we  
08:59:00 8 had hero skins in the mix. And we think that those also  
08:59:04 9 have a unique appeal to some players that haven't spent any  
08:59:08 10 money before. And through that, we probably got them to  
08:59:11 11 consider it.

08:59:12 12 QUESTION: Okay.

08:59:12 13 ATTORNEY: And, Mr. Smith, you can pull down the  
08:59:16 14 exhibit.

08:59:17 15 QUESTION: And now I'd like to turn to GREE in the  
08:59:17 16 present lawsuit.

08:59:18 17 Mr. Joas, what, if any, monitoring has Supercell  
08:59:21 18 done of GREE?

08:59:22 19 ANSWER: None that I know of.

08:59:24 20 QUESTION: What about GREE's games?

08:59:29 21 ANSWER: Also, none that I know of.

08:59:31 22 QUESTION: And what about GREE's patents?

08:59:34 23 ANSWER: None that I know of.

08:59:35 24 QUESTION: What, if any, changes has Supercell  
08:59:39 25 made to the copy layout feature based on the -- this

08:59:42 1 present case?

08:59:43 2 ANSWER: We haven't made any changes.

08:59:46 3 QUESTION: Would removing copy layout be possible?

08:59:50 4 ANSWER: Yes, it would be possible.

08:59:52 5 QUESTION: Has Supercell removed the -- the copy  
08:59:56 6 layout feature?

08:59:57 7 ANSWER: No, we haven't.

08:59:58 8 QUESTION: If removing the feature is possible,  
09:00:05 9 why has Supercell not done so?

09:00:08 10 ANSWER: Well, in this case, we don't think we've  
09:00:11 11 done anything wrong, mainly because copying and pasting is  
09:00:15 12 a very universal action. It's existed in software  
09:00:18 13 applications for a long time, and -- yeah.

09:00:20 14 QUESTION: Has Supercell ever removed the layout  
09:00:23 15 editor feature before?

09:00:24 16 ANSWER: Yes, we have.

09:00:25 17 QUESTION: Where?

09:00:26 18 ANSWER: We removed in Japan for Japanese players  
09:00:33 19 for -- for a period of around two years.

09:00:36 20 QUESTION: And what impact, if any, did removing  
09:00:41 21 the layout feature -- feature have in Japan?

09:00:44 22 ANSWER: We didn't see any impact in revenue or  
09:00:47 23 user metrics after having removed it.

09:00:50 24 QUESTION: All right. Let's move back to the copy  
09:00:54 25 layout feature.



09:00:54 1           You said it was introduced in 2018. Why was it  
09:00:58 2 not introduced earlier?

09:01:00 3           ANSWER: Well, it wasn't really kind of an easy  
09:01:06 4 decision to introduce it. When players in Clash of Clans  
09:01:10 5 get attached to their village and we kind of felt that it's  
09:01:14 6 a bit risky to allow people to copy other players' layouts  
09:01:19 7 because it might feel like cheapen -- cheapen their work.  
09:01:24 8 Like, you make a layout yourself and then someone just  
09:01:27 9 easily copies it. We weren't sure how that feels for the  
09:01:29 10 players.

09:01:29 11           And then also we had a concern that the meta game.  
09:01:32 12 So what do people's villages look like overall? What would  
09:01:38 13 happen to that? Would all the villages start looking the  
09:01:41 14 same? We had a concern with that, and we only added the  
09:01:45 15 copy layout feature after we sort of found this kind of a  
09:01:49 16 nice balance that you can only copy from your clan mates  
09:01:52 17 and not from anyone in the game.

09:01:53 18           And that's -- that's -- when we figured this out  
09:01:58 19 then we were comfortable adding that feature to the game.

09:02:00 20           QUESTION: I understood. Thank you, Mr. Joas. I  
09:02:03 21 have no further questions.

09:02:05 22           With that, I'll pass the witness.

09:02:06 23           QUESTION: Good morning, Mr. Joas, my name is  
09:02:08 24 Steve Moore, and we met previously, correct?

09:02:10 25           ANSWER: Yeah. Good morning, nice to meet you

09:02:12 1 again.

09:02:12 2 QUESTION: All right. You too. Thank you.

09:02:14 3 Now --

09:02:14 4 VIDEOGRAPHER: Excuse me. Does he have his  
09:02:19 5 microphone on? I'm sorry.

09:02:20 6 THE WITNESS: Can you hear me?

09:02:22 7 VIDEOGRAPHER: Yes, that's better, yep.

09:02:25 8 Proceed.

09:02:26 9 QUESTION: Now, you're the game lead for the Clash  
09:02:33 10 of Clans team, correct?

09:02:34 11 ANSWER: Correct.

09:02:35 12 QUESTION: And that means you lead the team?

09:02:38 13 ANSWER: Yes, correct.

09:02:40 14 QUESTION: And you report to Supercell's CEO,  
09:02:43 15 correct?

09:02:43 16 ANSWER: Yes, correct.

09:02:44 17 QUESTION: The Clash of Clans team has around 20  
09:02:47 18 people on it, right?

09:02:48 19 ANSWER: Yeah, that's about right.

09:02:50 20 QUESTION: And around six of those people are the  
09:02:52 21 programmers who write the source code for Clash of Clans?

09:02:56 22 ANSWER: Yes, correct.

09:02:58 23 QUESTION: Now -- but you don't have any training  
09:03:01 24 or expertise in computer science, do you?

09:03:03 25 ANSWER: No, I don't.

09:03:04 1 QUESTION: And you don't personally write source  
09:03:08 2 code?

09:03:08 3 ANSWER: No.

09:03:10 4 QUESTION: And you don't read source code either?

09:03:12 5 ANSWER: No.

09:03:12 6 QUESTION: So you're not involved in reviewing the  
09:03:15 7 source code that the programmers write on the Clash of  
09:03:18 8 Clans team?

09:03:18 9 ANSWER: No, I'm not.

09:03:19 10 QUESTION: And you joined the company about four  
09:03:23 11 years ago?

09:03:24 12 ANSWER: Yeah, that's about right.

09:03:26 13 QUESTION: 2016, I think you said?

09:03:28 14 ANSWER: Yeah. I think it was --

09:03:32 15 QUESTION: The layout editor feature was already  
09:03:34 16 in place in Clash of Clans before you joined the company,  
09:03:36 17 right?

09:03:36 18 ANSWER: Not sure.

09:03:42 19 QUESTION: Not sure? Okay.

09:03:43 20 Well, it was already in place in Clash of Clans  
09:03:46 21 before you started working on Clash of Clans, wasn't it?

09:03:49 22 ANSWER: Yes, I think so, yes.

09:03:51 23 QUESTION: And so you were not involved in the  
09:03:54 24 decision to introduce the layout editor feature in Clash of  
09:03:57 25 Clans, were you?

09:03:58 1 ANSWER: I was not.

09:03:58 2 QUESTION: All right. And you talked a little bit  
09:04:01 3 on direct about the copy layout feature and why it was  
09:04:04 4 introduced. Do you recall that?

09:04:06 5 ANSWER: Yes.

09:04:06 6 QUESTION: But you weren't involved in Supercell's  
09:04:09 7 decision to introduce the copy layout feature either, were  
09:04:12 8 you?

09:04:12 9 ANSWER: Not directly, no.

09:04:14 10 QUESTION: Okay. In fact, that was done by one of  
09:04:22 11 the programmers, wasn't it?

09:04:23 12 ANSWER: Yes, correct.

09:04:27 13 QUESTION: Now, you testified that even though  
09:04:29 14 Supercell could remove the copy layout feature, it hasn't  
09:04:32 15 done it; is that right?

09:04:33 16 ANSWER: Yeah, correct.

09:04:35 17 QUESTION: And so, in other words, the feature has  
09:04:37 18 been in the game and in the source code from June of 2018  
09:04:42 19 when it was introduced up until today?

09:04:45 20 ANSWER: Yeah, correct.

09:04:47 21 QUESTION: And Supercell doesn't have any plans to  
09:04:50 22 remove it either, does it?

09:04:52 23 ANSWER: Not at the moment, no.

09:04:54 24 QUESTION: Now, Supercell introduced the copy  
09:04:57 25 layout feature to make players' lives more convenient,

09:05:02 1 right?

09:05:02 2 ANSWER: Correct.

09:05:04 3 QUESTION: Instead of having to build your town or  
09:05:07 4 village layouts yourself, you could share the burden with  
09:05:11 5 other people?

09:05:13 6 ANSWER: Yes, correct.

09:05:13 7 QUESTION: Are you familiar with an internal  
09:05:20 8 messaging -- well, strike that.

09:05:22 9 You showed the jury on your direct examination I  
09:05:25 10 think two primary things. One was a presentation you had  
09:05:29 11 given at a conference; is that correct?

09:05:31 12 ANSWER: Yeah.

09:05:31 13 QUESTION: And then the second was the release  
09:05:34 14 notes for the Town Hall 12 release, which included the copy  
09:05:41 15 layout feature, correct?

09:05:41 16 ANSWER: Correct.

09:05:41 17 QUESTION: And both of those are documents that  
09:05:43 18 Supercell has shared publicly with the world, correct?

09:05:47 19 ANSWER: Correct.

09:05:48 20 QUESTION: Now, are you aware of an internal  
09:05:51 21 messaging program that Supercell uses called Slack?

09:05:54 22 ANSWER: Yes.

09:05:55 23 QUESTION: And what is Slack?

09:05:56 24 ANSWER: Slack is a messaging system. I guess  
09:06:03 25 there's a lot of different kinds companies use, but Slack

09:06:06 1 is one -- like a tool to facilitate internal  
09:06:10 2 communications.

09:06:10 3 QUESTION: All right. And is there a channel on  
09:06:13 4 your Slack program for the Clash of Clans team to use?

09:06:18 5 ANSWER: Yes.

09:06:19 6 QUESTION: And -- and you're part of that channel  
09:06:21 7 as the lead of the team, I would take it?

09:06:24 8 ANSWER: Yes.

09:06:24 9 QUESTION: All right.

09:06:26 10 ATTORNEY: If we could please pull up Plaintiff's  
09:06:28 11 Exhibit 73.

09:06:29 12 QUESTION: All right. Do you see at the top here  
09:06:42 13 that this is a series of messages using the Slack messaging  
09:06:46 14 program from November of 2017?

09:06:51 15 ANSWER: Yes.

09:06:55 16 ATTORNEY: And if we could go to Page 5, please.

09:06:59 17 QUESTION: We see there that, in fact, you sent  
09:07:12 18 the message on this chain of messages, correct?

09:07:16 19 ANSWER: Correct.

09:07:17 20 QUESTION: All right.

09:07:18 21 ATTORNEY: Now, if you could go to Page 6, please.  
09:07:31 22 If you can scroll down a little bit to the message from --

09:07:33 23 QUESTION: Do you see the name Marika Appel?

09:07:35 24 ANSWER: Yes.

09:07:35 25 QUESTION: All right. And Ms. Appel is one of the

09:07:37 1 members of your Clash of Clans team, correct?

09:07:39 2 ANSWER: Correct.

09:07:39 3 QUESTION: And she sent a message at this time in  
09:07:41 4 November of 2017 that said: Copy layout, what do you guys  
09:07:47 5 think?

09:07:47 6 Do you see that?

09:07:48 7 ANSWER: Yes.

09:07:48 8 QUESTION: And she referred to it as a quality of  
09:07:52 9 life improvement?

09:07:52 10 ANSWER: Yes.

09:07:54 11 ATTORNEY: Now, if we could scroll down a little  
09:07:57 12 bit more, please.

09:08:00 13 QUESTION: Do you see the message from Darian  
09:08:03 14 Vorlick?

09:08:03 15 ANSWER: Yes.

09:08:03 16 QUESTION: And Mr. Vorlick is also a member of the  
09:08:07 17 Clash of Clans team, right?

09:08:08 18 ANSWER: Correct, yes.

09:08:10 19 QUESTION: And he responded and said: It'd  
09:08:13 20 definitely save a lot of time and definitely a big QoL  
09:08:18 21 improvement.

09:08:19 22 Correct?

09:08:19 23 ANSWER: Correct.

09:08:20 24 QUESTION: And QoL means quality of life?

09:08:24 25 ANSWER: Yes, correct.

09:08:25 1 QUESTION: Referring to the players' quality of  
09:08:28 2 life, correct?

09:08:28 3 ANSWER: Yes, our quality of life feature.

09:08:30 4 QUESTION: Right.

09:08:33 5 ATTORNEY: All right. Now, if you could take that  
09:08:35 6 down, please.

09:08:58 7 QUESTION: I'd like to show you Plaintiff's  
09:08:38 8 Exhibit 6 -- 606. Now, this is another series of Slack  
09:09:01 9 messages on the Clash of Clans team channel from November  
09:09:04 10 of 2017, correct?

09:09:06 11 ANSWER: Correct.

09:09:07 12 QUESTION: And just to put it in context, this is  
09:09:11 13 approximately seven months before Supercell decided to  
09:09:14 14 introduce the copy layout feature in Clash of Clans?

09:09:17 15 ANSWER: Uh-huh, correct.

09:09:19 16 QUESTION: All right.

09:09:21 17 ATTORNEY: If we could go to, please, on Page 2.  
09:09:26 18 There is a message from an individual named Rauli. Go  
09:09:33 19 up -- go up a little bit, Ms. Moore. There we go. Right  
09:09:36 20 there is fine.

09:09:37 21 QUESTION: You see the name Rauli and a very long  
09:09:41 22 last name that begins with the letter L?

09:09:44 23 ANSWER: Yes.

09:09:44 24 QUESTION: All right. And he sent a message  
09:09:47 25 indicating a few lines down: Marika was asking if there



09:09:52 1 could be copy layouts option in the game. Do you see that?

09:09:54 2 ANSWER: Yes.

09:09:54 3 QUESTION: Now, this individual -- this gentlemen  
09:09:59 4 is the person who actually programmed the copy layouts  
09:10:02 5 feature, correct?

09:10:03 6 ANSWER: Yes, correct.

09:10:04 7 QUESTION: And he was involved in the decision to  
09:10:07 8 introduce copy layouts, right?

09:10:09 9 ANSWER: Yes.

09:10:11 10 QUESTION: All right.

09:10:13 11 MR. MOORE: And if you -- if we scroll down a  
09:10:18 12 little bit farther.

09:10:20 13 QUESTION: There is a message from an individual  
09:10:22 14 named --

09:10:23 15 ATTORNEY: Please scroll down a little bit  
09:10:25 16 farther. There we go, the very bottom of the page.

09:10:28 17 QUESTION: You see the name Stephan Demirdjian?

09:10:30 18 ANSWER: Yes.

09:10:30 19 QUESTION: Did I say that close to correct,  
09:10:33 20 Mr. Joas?

09:10:33 21 ANSWER: Close enough.

09:10:34 22 QUESTION: All right. Thank you.

09:10:34 23 Now, Mr. Demirdjian responds to the earlier  
09:10:39 24 message and says: I have been wishing for something like  
09:10:43 25 this ever since I have been helping out. Correct?

09:10:46 1 ANSWER: Correct.

09:10:47 2 QUESTION: And he also says: The process of  
09:10:51 3 updating your base layout is such a pain in the, blank,  
09:10:55 4 once you have to redo everything if it doesn't make sense  
09:10:59 5 to just add stuff around it. Do you see that?

09:11:02 6 ANSWER: Yes.

09:11:02 7 QUESTION: And for the record we blurred out the  
09:11:07 8 word he used.

09:11:08 9 Now, Mr. Demirdjian is also a Supercell employee,  
09:11:13 10 correct?

09:11:13 11 ANSWER: Correct.

09:11:13 12 QUESTION: All right. And you mentioned -- on  
09:11:20 13 your direct testimony, do you recall mentioning that before  
09:11:20 14 copy layout, players could take a screenshot of another  
09:11:25 15 layout that they liked and simply replicate it in their own  
09:11:27 16 village?

09:11:27 17 ANSWER: Correct, yes.

09:11:28 18 QUESTION: And Mr. Demirdjian refers to that here  
09:11:31 19 where he says: Current process, I take screenshot of a  
09:11:35 20 layout I like while attacking.

09:11:37 21 Do you see that?

09:11:37 22 ANSWER: Yes.

09:11:39 23 ATTORNEY: And if we could scroll to the top of  
09:11:42 24 the next page, please.

09:11:46 25 QUESTION: He then says that he sends that through

09:11:50 1 Slack to his PC and puts it on the screen while doing the  
09:11:55 2 changes and reserves 20 to 30 minutes for it, right?

09:11:57 3 ANSWER: Right.

09:11:58 4 QUESTION: Okay. In other words, so he's saying  
09:11:59 5 that using the previous screenshot method would take him 20  
09:12:02 6 to 30 minutes to copy a layout that he liked, right?

09:12:06 7 ANSWER: Yes, for him.

09:12:08 8 QUESTION: Okay. Now, before you became Clash of  
09:12:12 9 Clans game lead, the person in that job was named Tommi  
09:12:21 10 Suvinen; is that right?

09:12:21 11 ANSWER: Yes, correct.

09:12:23 12 ATTORNEY: Could we please show Plaintiff's  
09:12:25 13 Exhibit 68?

09:12:26 14 QUESTION: Now, this is a Slack message up from  
09:12:36 15 the Clash of Clans team from April of 2018. Do you see  
09:12:38 16 that?

09:12:38 17 ANSWER: Yes.

09:12:39 18 QUESTION: April 30th, I believe, correct?

09:12:43 19 ANSWER: Yes.

09:12:43 20 QUESTION: So this is a little more than one month  
09:12:47 21 before Supercell actually introduced the copy layout  
09:12:49 22 feature?

09:12:50 23 ANSWER: Uh-huh.

09:12:51 24 QUESTION: Is that correct?

09:12:52 25 ANSWER: Yes. Yes, that's correct.

09:12:56 1 QUESTION: All right. Now, you testified on  
09:12:57 2 direct about the fact that Supercell did not monitor GREE's  
09:13:01 3 patents. Do you recall that?

09:13:02 4 ANSWER: Yes.

09:13:03 5 QUESTION: All right.

09:13:05 6 ATTORNEY: Can we go to the bottom of the page,  
09:13:18 7 please? A little farther. Go on to Page 2, please. I'm  
09:13:21 8 sorry.

09:13:26 9 QUESTION: Do you see the message from Mr. Suvinen  
09:13:31 10 at the bottom of Page 2?

09:13:32 11 ANSWER: Yes.

09:13:32 12 QUESTION: And he wrote: Copying  
09:13:35 13 templates/layouts might be part of the GREE patent even  
09:13:36 14 without the editor.

09:13:37 15 Do you see that?

09:13:38 16 ANSWER: Yes.

09:13:39 17 QUESTION: And that's the last message in this  
09:13:42 18 chain, correct?

09:13:43 19 ANSWER: Correct.

09:13:43 20 QUESTION: And a little more than one month later,  
09:13:45 21 Supercell introduced the copy layout feature into Clash of  
09:13:48 22 Clans, correct?

09:13:49 23 ANSWER: Correct.

09:13:51 24 QUESTION: All right. Now, you also talked on  
09:13:57 25 direct about the layout editor and how it was removed in

09:14:02 1 Japan. Do you recall that?

09:14:03 2 ANSWER: Yes.

09:14:03 3 QUESTION: All right. And the reason that  
09:14:07 4 Supercell removed that in Japan was that GREE and Supercell  
09:14:12 5 were involved in litigation in Japan regarding that  
09:14:15 6 feature, correct?

09:14:16 7 ANSWER: Correct.

09:14:18 8 QUESTION: All right.

09:14:19 9 ATTORNEY: Could we please display Plaintiff's  
09:14:24 10 Exhibit 129?

09:14:36 11 QUESTION: This is an email from the same  
09:14:39 12 Mr. Demirdjian to a group of people from November of 2017.  
09:14:44 13 Do you see that?

09:14:45 14 ANSWER: Yes.

09:14:46 15 QUESTION: And the subject is: CoC weekly update.  
09:14:51 16 Do you see that?

09:14:51 17 ANSWER: Yes, correct.

09:14:52 18 QUESTION: And you use CoC as shorthand for Clash  
09:14:53 19 of Clans, right?

09:14:53 20 ANSWER: Yes.

09:14:54 21 QUESTION: And do you see on the second line of  
09:14:58 22 recipients that your name is the second name over?

09:15:01 23 ANSWER: Yes.

09:15:01 24 QUESTION: Okay.

09:15:02 25 ATTORNEY: Now, if you could scroll down to the

09:15:04 1 bottom of the page, please.

09:15:06 2 QUESTION: Do you see that Mr. Demirdjian says,  
09:15:10 3 right near his signature there: Furthermore, we are  
09:15:13 4 impacted by lawsuit in Japan -- and then GREE in  
09:15:17 5 parentheses.

09:15:18 6 Do you see that?

09:15:18 7 ANSWER: Yes.

09:15:19 8 QUESTION: And then he says: The effects for us  
09:15:22 9 are extremely undesirable as we need to remove the edit  
09:15:28 10 mode and builder suggestions for the time being in Japan.

09:15:32 11 Correct?

09:15:32 12 ANSWER: Correct.

09:15:34 13 QUESTION: Now, are you aware that later --

09:15:38 14 ATTORNEY: You can take that down, Ms. Moore.  
09:15:40 15 Thank you.

09:15:41 16 QUESTION: Are you aware that later on, Supercell  
09:15:44 17 was able to restore the layout editor feature for its  
09:15:48 18 players in Japan?

09:15:49 19 ANSWER: Yes.

09:15:50 20 QUESTION: And that was after the litigation with  
09:15:53 21 GREE ended?

09:15:54 22 ANSWER: Yes.

09:15:55 23 QUESTION: And after that happened, Supercell  
09:15:59 24 received messages that players were happy about the layout  
09:16:03 25 editor being available again, correct?

09:16:05 1 ANSWER: Yeah, we got some messages.

09:16:08 2 QUESTION: All right. And you got it in your  
09:16:09 3 forums that you make available for players?

09:16:12 4 ANSWER: I think the forums and social media  
09:16:17 5 channels, yes.

09:16:17 6 QUESTION: Okay. Like Twitter?

09:16:19 7 ANSWER: Yes.

09:16:21 8 QUESTION: Okay. All right. And is your  
09:16:24 9 testimony you're not aware of any messages while the layout  
09:16:29 10 editor was removed in which players were unhappy with that  
09:16:33 11 decision by Supercell?

09:16:34 12 ANSWER: Not that I know of, no.

09:16:36 13 QUESTION: You're not aware of any? Okay.

09:16:38 14 All right. Now, you testified earlier about gems,  
09:16:45 15 and that is the way that Supercell makes money in Clash of  
09:16:48 16 Clans; is that correct?

09:16:49 17 ANSWER: Correct.

09:16:50 18 QUESTION: It makes money by selling gems to  
09:16:53 19 players for real currency?

09:16:55 20 ANSWER: Yes.

09:16:55 21 QUESTION: All right. Now, Supercell doesn't  
09:16:59 22 charge anyone to download the game, right?

09:17:02 23 ANSWER: No.

09:17:02 24 QUESTION: And selling these gems is its only  
09:17:06 25 source of revenue for Clash of Clans?

09:17:08 1 ANSWER: Not the only source of revenue.

09:17:10 2 QUESTION: Okay. Selling virtual goods is the  
09:17:17 3 only source of revenue; is that correct?

09:17:19 4 ANSWER: Yeah, broadly, I guess you could say so,  
09:17:23 5 yes.

09:17:24 6 QUESTION: Okay. Well, isn't it true that the  
09:17:25 7 main thing that you sell in Clash of Clans is gems?

09:17:28 8 ANSWER: Yes. I guess you could say that, yes.

09:17:31 9 QUESTION: All right. And if a player decides to  
09:17:36 10 pay for -- well, let me strike that and back up.

09:17:39 11 Players can also earn gems in the game without  
09:17:43 12 paying, correct?

09:17:44 13 ANSWER: Correct.

09:17:44 14 QUESTION: Or, on the other hand, they can decide  
09:17:47 15 to pay for gems, correct?

09:17:49 16 ANSWER: Correct.

09:17:50 17 QUESTION: And if a player does decide to pay for  
09:17:54 18 more gems, they can advance more quickly, compared with a  
09:17:57 19 player that does not pay?

09:18:00 20 ANSWER: Correct.

09:18:00 21 QUESTION: Now, Clash of Clans has made the  
09:18:02 22 largest amount of revenue for Supercell compared to any of  
09:18:07 23 its other games, right?

09:18:09 24 ANSWER: Yeah.

09:18:10 25 QUESTION: But not all the players that play it



09:18:12 1 decide to pay; is that right?

09:18:15 2 ANSWER: Yes, correct.

09:18:16 3 QUESTION: In fact, it's something like 4 to  
09:18:19 4 5 percent of all users actually pay real money for gems; is  
09:18:24 5 that right?

09:18:24 6 ANSWER: Yeah, sounds about right.

09:18:28 7 QUESTION: Now, you're familiar with the term  
09:18:31 8 "engagement" as it's used in the gaming industry?

09:18:37 9 ANSWER: More or less.

09:18:38 10 QUESTION: Okay. And what engagement means is how  
09:18:41 11 active players are in the game; is that right?

09:18:43 12 ANSWER: Yes, it -- there's a lot -- quite a few  
09:18:48 13 definitions for it.

09:18:50 14 QUESTION: All right. It also refers to how much  
09:18:52 15 the players are enjoying the game; is that right?

09:18:55 16 ANSWER: Yeah.

09:18:56 17 QUESTION: And you would agree that there's a  
09:18:58 18 correlation between being engaged and spending in the game?

09:19:06 19 ANSWER: Yes.

09:19:07 20 QUESTION: In other words, the more engaged you  
09:19:09 21 are, the more likely you're able to spend real money in the  
09:19:13 22 game, correct?

09:19:16 23 ANSWER: Not exactly.

09:19:19 24 QUESTION: Okay. Do you recall that you were  
09:19:23 25 deposed in this case --

09:19:24 1 ANSWER: Yes.

09:19:25 2 QUESTION: -- several months ago?

09:19:27 3 ANSWER: Yes.

09:19:28 4 QUESTION: All right. And you had an opportunity  
09:19:29 5 to review that transcript?

09:19:30 6 ANSWER: Yes.

09:19:31 7 QUESTION: All right.

09:19:32 8 ATTORNEY: Could we please pull up Mr. Joas's  
09:19:35 9 deposition transcript and go to Page 116. 116.

09:19:56 10 All right. If you could scroll down, please, to  
09:19:58 11 Lines 12 -- and show from 12 lines -- sorry, if you could  
09:20:02 12 show from Line 12 to 19.

09:20:03 13 QUESTION: Do you see at your deposition I asked  
09:20:05 14 you the question: Okay. Do you have any expectation as to  
09:20:08 15 how that metric that I think is what you call session  
09:20:12 16 length would differ if you were to compare paying players  
09:20:16 17 and non-paying players?

09:20:18 18 And your answer was: I think there is a  
09:20:22 19 correlation between being engaged and spending. So the  
09:20:26 20 more engaged you are, the more likely you are to spend.

09:20:29 21 Does that refresh your recollection as to your  
09:20:32 22 earlier testimony?

09:20:33 23 ANSWER: Yes.

09:20:33 24 QUESTION: All right. Thank you.

09:20:34 25 ATTORNEY: Take that down.

09:20:40 1 QUESTION: You believe that time spent playing in  
09:20:43 2 a game is a measure of engagement, correct?

09:20:45 3 ANSWER: Yes.

09:20:45 4 QUESTION: All right.

09:20:52 5 ATTORNEY: Could we please show Plaintiff's  
09:20:55 6 Exhibit 458?

09:21:00 7 QUESTION: Now, you said earlier that Mr. Suvinen  
09:21:05 8 was your predecessor as game lead, correct?

09:21:08 9 ANSWER: Yes, correct.

09:21:09 10 QUESTION: And this is a declaration that he  
09:21:11 11 provided in September of 2017, correct?

09:21:13 12 ANSWER: It seems so, yes.

09:21:14 13 QUESTION: All right. And that was around the  
09:21:16 14 time that you were transitioning into that job; is that  
09:21:19 15 right?

09:21:19 16 ANSWER: Yes.

09:21:21 17 QUESTION: Okay. And it -- he provided this  
09:21:23 18 declaration to the Tokyo District Court, correct?

09:21:27 19 ANSWER: That's what it looks like, yes.

09:21:29 20 QUESTION: All right.

09:21:31 21 ATTORNEY: Now, if you could scroll down a little  
09:21:33 22 bit to show Paragraph 1, please?

09:21:37 23 QUESTION: Do you see that he says in the second  
09:21:40 24 line: I have knowledge about the functionality and  
09:21:43 25 development of the layout editor feature in Clash of Clans?

09:21:48 1 ANSWER: Yes.

09:21:49 2 QUESTION: All right.

09:21:49 3 ATTORNEY: If we could go to Page 6, Paragraph 27,  
09:21:54 4 please.

09:21:54 5 QUESTION: All right. This par -- in this  
09:22:01 6 paragraph, Mr. Suvinen says: When a player edits a layout  
09:22:01 7 in village edit mode, the command of each respective  
09:22:09 8 edit -- and I'll skip the parenthetical -- are directly  
09:22:12 9 sent to Supercell's game servers each time the player  
09:22:16 10 places, moves, or removes the building.

09:22:19 11 That's what he said in the declaration?

09:22:21 12 ANSWER: Yes.

09:22:23 13 ATTORNEY: If we could go, please, to Page -- to  
09:22:26 14 Paragraph, I'm sorry, Paragraph 36, which is on Page 7.

09:22:29 15 QUESTION: All right. Now, in this paragraph, do  
09:22:41 16 you see the statement that Mr. Suvinen makes four lines  
09:22:45 17 down that reads: The players' game session is always  
09:22:49 18 running simultaneously on the device and on the game  
09:22:52 19 server?

09:22:53 20 ANSWER: Yes.

09:22:56 21 QUESTION: All right.

09:22:58 22 ATTORNEY: If we could go to Paragraph 38, please.

09:23:03 23 QUESTION: In this paragraph, Mr. Suvinen says:  
09:23:06 24 No data is stored on the client device. Persistent storage  
09:23:10 25 for the game data, including the layout editor data, is

09:23:14 1 only stored on the game servers.

09:23:16 2 Do you see that?

09:23:17 3 ANSWER: Yes.

09:23:17 4 QUESTION: And then in Paragraph 39, he says:

09:23:20 5 While the game is running on the device, the state of the  
09:23:23 6 application is kept in the runtime memory of the device.

09:23:26 7 Is that what he said?

09:23:27 8 ANSWER: Yes.

09:23:27 9 QUESTION: All right. And, to the best of your  
09:23:30 10 knowledge, are all of these statements in the declaration  
09:23:33 11 still true as of today for Clash of Clans?

09:23:36 12 ANSWER: I can't say.

09:23:42 13 QUESTION: Okay.

09:23:45 14 ATTORNEY: That's all the questions I have. I  
09:23:47 15 would pass the witness. Thank you.

09:23:48 16 QUESTION: Mr. Joas, can you explain to the jury  
09:23:51 17 again what quality of life features are?

09:23:52 18 ANSWER: Yes. Sure. Quality of life features are  
09:23:54 19 things that usually players request. They're things that  
09:23:58 20 we do for the convenience of the players in the game.

09:24:00 21 QUESTION: Do quality of life features cause  
09:24:03 22 people to want to play Clash of Clans?

09:24:05 23 ANSWER: No, I wouldn't say so.

09:24:09 24 QUESTION: What, if any, quality of life features  
09:24:11 25 cause players to spend more money?

09:24:13 1 ANSWER: I don't think any --

09:24:15 2 ATTORNEY: Objection, leading.

09:24:17 3 ANSWER: -- quality of life features cause players  
09:24:23 4 to spend more money.

09:24:24 5 QUESTION: What impact on revenue do quality of  
09:24:30 6 life features have in Clash of Clans?

09:24:31 7 ANSWER: Very little I would say.

09:24:32 8 QUESTION: And what impact do quality of life  
09:24:34 9 features have on whether players begin playing Clash of  
09:24:39 10 Clans?

09:24:39 11 ANSWER: I don't think anyone begins playing Clash  
09:24:45 12 of Clans because of quality of life features.

09:24:46 13 QUESTION: And what impact do quality of life  
09:24:49 14 features like copy layout have on players buying gems?

09:24:55 15 ANSWER: I don't think there's any connection. I  
09:24:58 16 don't think copy layout actually contributes to gem sales  
09:25:00 17 at all.

09:25:01 18 QUESTION: During your cross-examination, you  
09:25:03 19 looked at an exhibit, Plaintiff's Exhibit 068. I'd like to  
09:25:08 20 show that document to you again.

09:25:11 21 And at the top of exhibit PX-068, what -- what  
09:25:20 22 date does this -- did this chat take place?

09:25:23 23 ANSWER: April 30th, 2018.

09:25:25 24 QUESTION: And what was going on between GREE and  
09:25:28 25 Supercell at that time?

09:25:32 1 ANSWER: I'm not sure. I guess -- yeah.

09:25:39 2 QUESTION: Sorry, go ahead.

09:25:40 3 ANSWER: I guess we -- we were dealing with the  
09:25:43 4 Japanese lawsuit at that time.

09:25:48 5 ATTORNEY: No further questions.

09:25:51 6 (Videoclip ends.)

09:25:52 7 THE COURT: Does that complete this witness by  
09:25:54 8 deposition?

09:25:54 9 MR. SACKSTEDER: It does, Your Honor. And I have  
09:25:56 10 some exhibits that were used in the direct and redirect  
09:26:00 11 portion of the deposition.

09:26:01 12 THE COURT: If you'd like to announce those at  
09:26:04 13 this time, that would be fine.

09:26:05 14 MR. SACKSTEDER: Thank you, Your Honor.

09:26:06 15 PX-33, PX-159, PX-446, and in redirect PX-68.

09:26:13 16 THE COURT: All right. Call your next witness,  
09:26:15 17 Mr. Sacksteder.

09:26:16 18 MR. SACKSTEDER: Supercell calls Masaki Fujimoto,  
09:26:25 19 who is a corporate representative of GREE.

09:26:27 20 THE COURT: By deposition?

09:26:27 21 MR. SACKSTEDER: Yes.

09:26:28 22 THE COURT: Please proceed.

09:26:29 23 (Videoclip played.)

09:26:30 24 QUESTION: Can you state your name for the record,  
09:26:38 25 please?

09:26:38 1 ANSWER: Masaki Fujimoto.

09:26:43 2 QUESTION: Where do you live?

09:26:51 3 ANSWER: Japan.

09:26:51 4 QUESTION: Where in Japan?

09:26:52 5 ANSWER: Tokyo.

09:26:53 6 QUESTION: What do you do for a living?

09:27:00 7 ANSWER: I'm a director at GREE, Incorporated.

09:27:07 8 QUESTION: What does it mean to be a director at  
09:27:09 9 GREE, Incorporated?

09:27:12 10 ANSWER: I'm a director selected at the  
09:27:41 11 shareholders' meeting, and I am a director governed by the  
09:27:48 12 Japanese company act -- company act.

09:27:52 13 QUESTION: By director, you mean you are a member  
09:27:55 14 of the board of directors?

09:27:56 15 ANSWER: I'm a member of the board of directors.

09:27:57 16 QUESTION: Do you hold any other positions with  
09:27:59 17 GREE?

09:27:59 18 ANSWER: I hold the position of CTO, and I also  
09:28:26 19 hold the position of general manager of development.

09:28:28 20 QUESTION: CTO means chief technology officer?

09:28:33 21 ANSWER: Yes.

09:28:33 22 QUESTION: Have you ever had responsibility  
09:28:38 23 yourself for developing any specific games at GREE?

09:28:49 24 ANSWER: 15 years is a long time, so I can't say  
09:29:24 25 that I'm absolutely correct in saying this, but I don't



09:29:27 1 think so.

09:29:28 2 QUESTION: In Exhibit 27, which you have in front  
09:29:32 3 of you, the title of the invention or the provisional title  
09:29:36 4 is Battle System with Cards Arranged in Palette, correct?

09:29:47 5 ANSWER: The -- the name of the invention is the  
09:29:58 6 Battle System With Cards Arranged in a Palette, but there  
09:30:03 7 is a -- it says provisional in brackets.

09:30:09 8 QUESTION: Can you turn to the page of Exhibit 27  
09:30:13 9 that has the number 28105 at the bottom?

09:30:19 10 Do you see the section that says Other Remarks?

09:30:22 11 ANSWER: Yes.

09:30:23 12 QUESTION: It refers to inventors at GeePlus  
09:30:33 13 Incorporated, correct?

09:30:34 14 ANSWER: Yes.

09:30:34 15 QUESTION: And then it names Yuji Okada, Takahiro  
09:30:40 16 Mori, and Mitsuki Iwao. Do you see that?

09:30:44 17 ANSWER: I don't know if that's how you read these  
09:30:55 18 names, but I see the names.

09:30:57 19 QUESTION: My question was, you made no effort to  
09:31:01 20 find out what that contribution was, correct?

09:31:03 21 ANSWER: My understanding is that their  
09:31:41 22 contribution is as written here.

09:31:43 23 QUESTION: Beyond what is written in the document,  
09:31:45 24 you made no attempt to find out what specific elements of  
09:31:49 25 the invention were contributed by any of the invention --

09:31:53 1 inventors, correct?

09:31:55 2 ANSWER: I think their contribution is as written  
09:32:27 3 here.

09:32:27 4 QUESTION: And there's no information at all in  
09:32:30 5 the document about the level of contribution of the  
09:32:32 6 inventors at GeePlus Incorporated, correct?

09:32:40 7 ANSWER: At this moment in time, all I -- I can  
09:33:08 8 find are the names on the fifth page.

09:33:11 9 QUESTION: Going back to Exhibit 27, is it your  
09:33:22 10 understanding that the invention that is disclosed in  
09:33:25 11 Exhibit 27 was included in the One Piece Adventure Log  
09:33:32 12 game?

09:33:32 13 ANSWER: My understanding is that this invention  
09:34:23 14 was conceived during the -- the development of the process  
09:34:26 15 of One Piece Adventure Log.

09:34:31 16 QUESTION: Is it your understanding that the  
09:34:34 17 invention was actually employed by One Piece Adventure Log?

09:34:53 18 ANSWER: If my memory serves correct, I -- at the  
09:35:07 19 very least, I believe it was implemented or employed.

09:35:11 20 QUESTION: You mentioned earlier the Avatar  
09:35:14 21 service. What is that?

09:35:16 22 ANSWER: Well, first of all, there is GREE, the  
09:36:30 23 social networking service, and on that service, user --  
09:36:36 24 users can create profiles.

09:36:38 25 And unlike a picture of your face used --

09:36:41 1 typically used on Facebook, GREE, the social networking  
09:36:45 2 service, allows users to use graphics and also allows use  
09:36:54 3 of customized clothing and items.

09:36:59 4 And you can basically create your own Avatar to  
09:37:03 5 communicate with the other users. And this is one of the  
09:37:07 6 major features of the social -- the social networking  
09:37:11 7 service.

09:37:11 8 QUESTION: Do you consider the Avatar -- the  
09:37:13 9 Avatar service to be a game?

09:37:15 10 ANSWER: That depends on who you ask. You may get  
09:37:57 11 different answers.

09:37:59 12 QUESTION: I'm asking you.

09:38:00 13 ANSWER: You can say it a game -- you can say it's  
09:38:11 14 a game. At the same time, you can say it's not a game.

09:38:16 15 QUESTION: You're the chief technology officer of  
09:38:19 16 GREE, correct?

09:38:21 17 ANSWER: Yes.

09:38:22 18 QUESTION: Is there any description in Exhibit 27  
09:38:25 19 of any technological implementation of the invention that's  
09:38:30 20 described in the exhibit?

09:38:31 21 ANSWER: From a technological perspective, No. 4  
09:40:11 22 on Page 2 of this document, there is a mention of the word  
09:40:16 23 "server." That's about it.

09:40:18 24 QUESTION: The way that a game is played depends  
09:40:22 25 on the rules for the game, correct?

09:40:28 1 ANSWER: The word "game" has a very broad meaning.  
09:41:19 2 There are -- there may be players who play the game by  
09:41:24 3 breaking the rule. So the meaning is too broad. I don't  
09:41:29 4 know.

09:41:29 5 QUESTION: You don't know whether the way a game  
09:41:34 6 is played is determined by the rules of the game? Is that  
09:41:41 7 your testimony?

09:41:41 8 ANSWER: There are -- excuse me.

09:42:47 9 In some games, you play by following the rules.  
09:43:00 10 But if you interpret the word "game" in -- in a broad  
09:43:12 11 sense, because it has a broad meaning to it, there are  
09:43:18 12 games where you play by not following the rules.

09:43:20 13 QUESTION: The invention that's described in  
09:43:26 14 Exhibit 27 was developed for use in the -- the One Piece  
09:43:34 15 game, correct?

09:43:37 16 ANSWER: I'm certain that a member submitted that  
09:44:01 17 during the development phase.

09:44:02 18 QUESTION: And the invention in Exhibit 27  
09:44:09 19 establishes some of the rules by which the One Piece game  
09:44:14 20 is played, correct?

09:44:15 21 ANSWER: I believe there was an implementation to  
09:44:49 22 the One Piece -- the game that reflected this idea.

09:44:52 23 QUESTION: And that implementation establishes the  
09:44:56 24 method in which the game operates, correct?

09:45:01 25 ANSWER: If by "implementation" you mean source

09:45:28 1 code, then the game should operate according to that --  
09:45:31 2 exactly according to that.

09:45:32 3 QUESTION: Exhibit 29 is an invention disclosure,  
09:45:37 4 correct?

09:45:37 5 ANSWER: That depends on how you define the term  
09:46:18 6 "disclosure." But when I saw this document for the first  
09:46:23 7 time, it was just the patent application sheet.

09:46:26 8 QUESTION: The invention was developed for a game  
09:46:30 9 that had the code name SUSANOO, correct?

09:46:37 10 ANSWER: This was an idea that was conceived  
09:47:00 11 during the development of SUSANOO, and that is what is  
09:47:05 12 described in this document.

09:47:06 13 QUESTION: And that game is a code name for the  
09:47:11 14 Tenmega game, correct?

09:47:13 15 ANSWER: Are you asking me the -- the code name  
09:47:27 16 for Tenmega was SUSANOO?

09:47:32 17 QUESTION: Sure.

09:47:34 18 ANSWER: In that case, yes.

09:47:35 19 QUESTION: The first page of Exhibit 29 refers to  
09:47:38 20 a game called Clash of Clans. Do you see that?

09:47:42 21 ANSWER: Yes.

09:47:42 22 QUESTION: This document was created and sealed in  
09:47:57 23 August and September of 2013. Were you aware of Clash of  
09:48:03 24 Clans at that time?

09:48:03 25 ANSWER: I know of its name, and this was seven

09:48:50 1 years ago, but I read this document. So I must have known  
09:48:56 2 of it.

09:48:58 3 QUESTION: The Tenmega game was available to the  
09:49:02 4 public for less than a year, correct?

09:49:05 5 ANSWER: I don't have information regarding the  
09:49:29 6 period of its public availability. And, however, my sense  
09:49:37 7 is, yes, it's around that.

09:49:41 8 (Videoclip ends.)

09:49:42 9 THE COURT: Does that complete this witness by  
09:49:44 10 deposition?

09:49:45 11 MR. SACKSTEDER: Not quite, Your Honor, I don't  
09:49:48 12 think.

09:49:48 13 THE COURT: I'm sorry. Let's continue then.

09:49:50 14 (Videoclip played.)

09:49:51 15 QUESTION: One Piece Adventure Log is the only  
09:49:54 16 GREE game that has ever included the invention that's  
09:49:58 17 described in Exhibit 27, correct?

09:50:00 18 ANSWER: As far as I know now, I think so.

09:50:29 19 QUESTION: One Piece Adventure Log is no longer  
09:50:32 20 publicly available, correct?

09:50:34 21 ANSWER: That should be right.

09:50:42 22 QUESTION: Was One Piece Adventure Log ever  
09:50:45 23 distributed outside Japan?

09:50:47 24 ANSWER: As far as I know, we never intended to  
09:51:49 25 release this outside of Japan. And, however, this product

09:51:53 1 was accessible from the Internet -- from the Internet  
09:51:58 2 browser. So, technically speaking, people outside of Japan  
09:52:02 3 could have played this.

09:52:04 4 (Videoclip ends.)

09:52:09 5 MR. SACKSTEDER: I believe that is it now,  
09:52:12 6 Your Honor.

09:52:12 7 THE COURT: I'm hesitant to ask again.

09:52:14 8 MR. SACKSTEDER: I know. Only two -- two takes  
09:52:17 9 were made, so I think that's it.

09:52:18 10 THE COURT: Okay.

09:52:19 11 MR. SACKSTEDER: I have a couple notes on the --  
09:52:21 12 on the exhibits.

09:52:22 13 THE COURT: All right. You can --

09:52:23 14 MR. SACKSTEDER: The exhibits that were used  
09:52:24 15 during the deposition were DX-27 and 29, and they're  
09:52:28 16 actually DX-27A and 27B and 29A and 29B. The As are the  
09:52:35 17 Japanese original versions and the Bs are the certified  
09:52:41 18 English translations.

09:52:43 19 THE COURT: All right. Thank you, counsel.

09:52:44 20 Ladies and gentlemen of the jury, we're going to  
09:52:46 21 take this juncture to have a short recess. You may simply  
09:52:50 22 close your notebooks and leave them in your chairs.

09:52:52 23 Please remember all my instructions, including not  
09:52:54 24 to discuss the case among yourselves. Use this opportunity  
09:52:58 25 to stretch your legs, get a drink of water, and we'll

09:53:01 1 continue with the next defense witness after you return.

09:53:05 2 The jury is excused for recess.

09:53:07 3 COURT SECURITY OFFICER: All rise.

09:53:08 4 (Jury out.)

09:53:32 5 THE COURT: Counsel, take about five or six

09:53:34 6 minutes, and then meet me in chambers, and we'll pick up

09:53:38 7 where we left off with the demonstrative disputes and other  
09:53:41 8 matters.

09:53:41 9 Court stands in recess.

09:53:44 10 COURT SECURITY OFFICER: All rise.

09:56:39 11 (Recess.)

10:32:23 12 (Jury out.)

10:32:24 13 COURT SECURITY OFFICER: All rise.

10:32:24 14 THE COURT: Be seated, please.

10:32:41 15 Mr. Moore, do I understand you have a proffer to  
10:32:47 16 offer?

10:32:48 17 MR. MOORE: We do, Your Honor. Mr. Morlock would  
10:32:50 18 be happy to make --

10:32:51 19 THE COURT: Go to the podium, and let's get that  
10:32:55 20 recited, please.

10:33:01 21 MR. MORLOCK: Thank you, Your Honor. Michael  
10:33:01 22 Morlock.

10:33:04 23 Per our discussion in chambers, Plaintiff objects  
10:33:07 24 to Dr. Claypool's testimony regarding Claim 1 for two  
10:33:11 25 reasons.



10:33:12 1 One, it is inconsistent with the Court's  
10:33:14 2 construction of moving, which excluded real-time, and also  
10:33:18 3 because he disavowed this argument during his deposition.

10:33:22 4 THE COURT: All right. That was thoroughly  
10:33:25 5 discussed in chambers.

10:33:27 6 For the record, the Court's overruled that  
10:33:30 7 objection, although I will note as an aside, Supercell has  
10:33:34 8 made much in the record about the prejudice they've  
10:33:36 9 suffered by not being able to bring their witnesses live to  
10:33:40 10 trial. In this particular case, it seems to have worked  
10:33:43 11 very much to their benefit.

10:33:44 12 Nonetheless, the objections are overruled.

10:33:48 13 MR. MORLOCK: Thank you, Your Honor.

10:33:50 14 THE COURT: All right. Let's bring in the jury,  
10:33:53 15 please.

10:33:53 16 COURT SECURITY OFFICER: All rise.

10:34:18 17 (Jury in.)

10:34:20 18 THE COURT: Thank you for your patience, ladies  
10:34:22 19 and gentlemen. Please be seated.

10:34:25 20 Defendant, call your next witness.

10:34:30 21 MR. KOHM: Your Honor, Supercell calls Mr. Stacy  
10:34:33 22 Friedman.

10:34:33 23 THE COURT: All right. Mr. Friedman, if you'd  
10:34:35 24 come forward and be sworn, please.

10:34:39 25 (Witness sworn.)

10:34:55 1 THE COURT: Please come around, sir, have a seat  
10:34:57 2 at the witness stand.

10:34:59 3 MR. KOHM: Your Honor, may we approach with  
10:35:02 4 binders?

10:35:02 5 THE COURT: You may.

10:35:04 6 All right. Mr. Kohm, you may proceed with your  
10:35:35 7 direct examination.

10:35:36 8 MR. KOHM: Thank you, Your Honor.

10:35:36 9 STACY FRIEDMAN, DEFENDANT'S WITNESS, SWORN

10:35:36 10 DIRECT EXAMINATION

10:35:37 11 BY MR. KOHM:

10:35:37 12 Q. Mr. Friedman, would you please state your name for the  
10:35:42 13 record and spell it?

10:35:42 14 A. Yes, my name is Stacy Friedman, S-t-a-c-y  
10:35:49 15 F-r-i-e-d-m-a-n.

10:35:49 16 Q. And Mr. Friedman, what do you do for a living?

10:35:52 17 A. I am a small business owner, I'm an entrepreneur, an  
10:35:57 18 inventor, gaming consultant. I run a company called  
10:36:00 19 Olympian Gaming LLC --

10:36:01 20 THE COURT: Mr. Friedman, pull that microphone a  
10:36:03 21 little closer to you, please.

10:36:04 22 THE WITNESS: Yes, Your Honor.

10:36:05 23 THE COURT: Thank you.

10:36:06 24 Continue, please.

10:36:08 25 Q. (By Mr. Kohm) Mr. Friedman, have you been retained by

10:36:11 1 Supercell in this case?

10:36:11 2 A. I have.

10:36:12 3 Q. And what were you retained to do?

10:36:14 4 A. I was retained to perform an analysis on two U.S.

10:36:19 5 patents, Nos. 9,604,137 and 9,956,481, in regard to whether

10:36:28 6 they are valid and whether they are infringed by the Clash

10:36:32 7 Royale game.

10:36:32 8 Q. Mr. Friedman, are you being compensated for your time

10:36:36 9 here?

10:36:36 10 A. I am, yes.

10:36:38 11 Q. And what are you being -- what rate are you being

10:36:42 12 compensated at?

10:36:43 13 A. \$575.00 an hour.

10:36:45 14 THE COURT: Mr. Friedman, you're going to need to  
10:36:46 15 either speak up or raise the microphone. It doesn't do any  
10:36:51 16 good if the jury doesn't hear you.

10:36:52 17 THE WITNESS: I apologize. Is this better?

10:36:54 18 THE COURT: That's better.

10:36:54 19 All right. Let's continue.

10:36:56 20 Q. (By Mr. Kohm) Is that your normal rate?

10:36:58 21 A. It is, yes.

10:36:59 22 Q. And, Mr. Friedman, do you have any stake in the outcome  
10:37:03 23 of this litigation?

10:37:05 24 A. No, not at all.

10:37:06 25 Q. I want to talk a little bit about your background.

10:37:13 1 How -- do you have experience in the area of game design?

10:37:15 2 A. Oh, yes. 22 years professionally in the gaming  
10:37:20 3 industry.

10:37:20 4 Q. Prior to actually getting involved in the gaming  
10:37:29 5 industry, did you obtain any degrees?

10:37:32 6 A. Yes, I hold a computer science degree from Harvard.

10:37:36 7 Q. And what year did you do that?

10:37:38 8 A. Graduated in 1996.

10:37:39 9 Q. And could you please briefly summarize your employment  
10:37:44 10 history after you graduated?

10:37:46 11 A. Sure. I -- after I graduated, I went to the Bay Area.  
10:37:50 12 I worked -- I was a software engineer during the dot-com  
10:37:54 13 bubble, I worked at Oracle, I worked at a handful of small  
10:38:00 14 start-ups.

10:38:00 15 In 1998, I joined a slot machine company, and  
10:38:05 16 worked for them as a mathematician and software engineer.

10:38:09 17 Q. I'm sorry. I'm not sure you said it before, I want to  
10:38:11 18 make sure, what was your degree in?

10:38:13 19 A. Computer science.

10:38:14 20 Q. Okay. You said you joined a slot gaming -- company.  
10:38:17 21 What did you do there?

10:38:18 22 A. Yes, I was what's called a game designer. In the  
10:38:21 23 casino world, that means designing not only the game rules  
10:38:24 24 but also looking at the mathematics and being able to  
10:38:27 25 understand whether the house has the edge or how much the

10:38:31 1 house has the edge.

10:38:32 2 Q. Did that involve any electronic games?

10:38:37 3 A. Oh, yes, all of our games were electronic, video slot  
10:38:42 4 machine games.

10:38:43 5 Q. Did that work involve any software development?

10:38:45 6 A. Yes.

10:38:45 7 Q. How long have you been developing software?

10:38:47 8 A. Professionally, since I got out of college. I was  
10:38:53 9 coding long before that.

10:38:55 10 Q. And when you say coding, what do you mean?

10:38:57 11 A. Software development. Sorry, coding, writing code,  
10:39:02 12 developing software.

10:39:03 13 Q. What type of code?

10:39:04 14 A. Well, I mean, I've written in a number of different  
10:39:08 15 languages, I've used Java, I've used C, I've used C++, C#,  
10:39:15 16 a handful of scripting languages. The projects I've worked  
10:39:18 17 on range from enterprise software, to casino games, to  
10:39:20 18 mathematical analysis.

10:39:22 19 Q. And the various -- various types of code you listed, is  
10:39:26 20 that all source code?

10:39:29 21 A. The first part, yeah, those are programming languages,  
10:39:31 22 yes.

10:39:32 23 Q. Are you a named inventor on any issued or pending  
10:39:42 24 patents?

10:39:43 25 A. I am, yes.

10:39:44 1 Q. Do you have a sense of how many?

10:39:47 2 A. It's approximately 40 issued and/or pending patents.

10:39:55 3 MR. KOHM: Your Honor, at this time, I'd like to  
10:39:57 4 offer Mr. Friedman as a technical expert in the field of  
10:39:59 5 video game design and social gaming and software  
10:40:02 6 development in this matter.

10:40:03 7 THE COURT: Is there objection?

10:40:04 8 MR. MOORE: No objection, Your Honor.

10:40:06 9 THE COURT: Then, without objection, the Court  
10:40:07 10 will recognize this witness as an expert in those  
10:40:10 11 particular fields.

10:40:11 12 You may continue.

10:40:12 13 MR. KOHM: Thank you, Your Honor.

10:40:13 14 Q. (By Mr. Kohm) Mr. Friedman, a little background.

10:40:17 15 First, what is source code?

10:40:18 16 A. Source code is what software developers write. It's  
10:40:25 17 usually -- it's a little cryptic, but it's readable by a  
10:40:29 18 person because it has to be writable by a person. And what  
10:40:32 19 happens is you take the source code in whatever language,  
10:40:35 20 and then typically you'll either interpret it or compile it  
10:40:37 21 into what's called executable code, and that's what runs on  
10:40:41 22 a computer.

10:40:41 23 Q. And when reading this code, do you read it from front  
10:40:45 24 to back like you would a book?

10:40:47 25 A. No, not at all.

10:40:48 1 Q. How do you read it?

10:40:49 2 A. So it depends on the language. The language of the  
10:40:54 3 code that I reviewed for this case was written in C++. C++  
10:40:59 4 is what's called an object-oriented programming language.

10:41:02 5 What that means is code is grouped into functions  
10:41:05 6 that are grouped into larger objects. And it's those  
10:41:09 7 objects that represent things in the game. For example, a  
10:41:15 8 button for casting a spell or a creature for -- for running  
10:41:18 9 around on the battle field.

10:41:20 10 And in order to truly understand how the code  
10:41:22 11 works when it's running, you have to take a look at the  
10:41:25 12 functions in the order that they're calling one another.

10:41:28 13 So it's sort of like -- rather than reading it  
10:41:32 14 like a book, you would read it like a -- choose your own  
10:41:35 15 adventure book. Each function tells you only so far, in  
10:41:39 16 that you get to the end of the page, and it says, well,  
10:41:39 17 jump over here, jump back there.

10:41:41 18 So in order to understand how the code flows when  
10:41:44 19 it's running, you have to trace through the calls each  
10:41:47 20 function makes to one another.

10:41:49 21 Q. Turning now to this case, Mr. Friedman, you were in the  
10:42:03 22 courtroom when Dr. Akl offered his opinions?

10:42:05 23 A. I was, yes.

10:42:06 24 Q. Did you agree with those opinions?

10:42:07 25 A. No.

10:42:08 1 Q. What is your opinion regarding the '137 and '481  
10:42:15 2 patents?

10:42:15 3 A. My opinion on the '137 and '481, first of all, it's my  
10:42:21 4 opinion that both of those patents are invalid; and,  
10:42:25 5 second, it's my opinion that both of those patents are not  
10:42:29 6 infringed by the Clash Royale game.

10:42:31 7 Q. And how did you come to those opinions?

10:42:33 8 A. Well, so for the first one, the -- the invalidity side,  
10:42:38 9 I reviewed not only the patents themselves, but I reviewed  
10:42:42 10 some prior art. I relied on my knowledge and background as  
10:42:46 11 someone in the gaming space, and -- and I compared what was  
10:42:52 12 alleged to be invented by the patents with what had existed  
10:42:56 13 previously and what was -- what was described in the prior  
10:42:59 14 art.

10:42:59 15 For the non-infringement side, I compared the  
10:43:06 16 claims as they've been construed to the behavior of the  
10:43:09 17 Clash Royale game, and that includes reviewing the behavior  
10:43:15 18 of the game through playing it and videos, and that sort of  
10:43:19 19 hands-on analysis, and then I also read through the source  
10:43:23 20 code and confirmed that what you see is actually reflected  
10:43:26 21 in -- in the behavior within the code.

10:43:30 22 Q. You mentioned the term prior art. Would you please  
10:43:34 23 tell us what that means?

10:43:36 24 A. Yes. So prior art is basically anything that existed  
10:43:41 25 in the public -- in other words, that the public would have



10:43:45 1 known about prior to the date of the invention of the  
10:43:49 2 patents.

10:43:49 3 And I think the date that we were looking at, if I  
10:43:58 4 recall -- I actually can't find the date that we rely -- I  
10:44:04 5 think it was somewhere in 2013, but I can't remember what  
10:44:08 6 the priority date is. But I know that was in -- in the  
10:44:10 7 analysis. I just can't see it on the paper right now.

10:44:15 8 Q. We'll -- we'll come back to that.

10:44:17 9 A. Okay.

10:44:17 10 Q. You -- you also used the term "as construed." Whose  
10:44:24 11 constructions were you using?

10:44:25 12 A. Oh, I was using the Court's constructions.

10:44:27 13 Q. And your opinions adopt those constructions?

10:44:30 14 A. Yes, they do.

10:44:40 15 MR. KOHM: Mr. Smith, can we pull up DX-51 for a  
10:44:43 16 moment? DX-51.

10:45:24 17 Q. (By Mr. Kohm) And just to make sure we're talking  
10:45:26 18 about the same thing, Mr. Friedman, is this the '137 patent  
10:45:30 19 to which you referred?

10:45:31 20 A. Yes, that's the first page.

10:45:38 21 MR. KOHM: Okay. You can take it down, Mr. Smith.  
10:45:40 22 Thank you.

10:45:41 23 Q. (By Mr. Kohm) All right. I want to now turn to Clash  
10:45:47 24 Royale, the game.

10:45:48 25 A. Okay.

10:45:50 1 MR. KOHM: Mr. Smith, if you could pull up PX-150,  
10:45:57 2 and play it from 9 seconds to 20 seconds at half speed.

10:46:04 3 Q. (By Mr. Kohm) And I would ask you to give a  
10:46:06 4 description to the jury of the game mechanics that are  
10:46:08 5 taking place.

10:46:09 6 A. Sure. So we're going to play this at half speed  
10:46:12 7 because the game moves pretty quickly in real-time.

10:46:14 8 And what you're going to see is that the hand --  
10:46:18 9 the empty hand of cards -- actually I think that was at  
10:46:25 10 real speed. Maybe it's not.

10:46:26 11 What happened was the hand of cards was empty. It  
10:46:29 12 came up from the bottom. The Elixir bar was already half  
10:46:32 13 full and was growing. And then the finger came and dragged  
10:46:36 14 across, picking a card, dropping it into the field, and --  
10:46:39 15 and so let's -- let's go back and do a couple of those  
10:46:41 16 sections again.

10:46:42 17 Let's start it around 10 seconds, I think. Yeah,  
10:46:46 18 that's perfect.

10:46:47 19 So there you could see -- you've already got an  
10:46:50 20 empty hand of cards and the Elixir bar is growing and the  
10:46:53 21 cards swoop in from the left.

10:46:55 22 And pause right there.

10:46:56 23 And so what's going to happen now is the finger is  
10:46:59 24 going to drag a card from the hand of cards and drop it  
10:47:03 25 into the battlefield.

10:47:04 1 And now I'd like to slow this down a lot further  
10:47:07 2 because this game does move pretty quickly.

10:47:09 3 What you're going to see is the finger will drop  
10:47:13 4 the card into the battlefield. And then a target -- see  
10:47:17 5 the -- underneath on the -- the right side, underneath the  
10:47:20 6 Mega Knight, there's a little square. And that square is  
10:47:24 7 what's called a spell target indicator. Each of these --  
10:47:27 8 these cards internally, they're called spells.

10:47:31 9 So you're casting a spell. And that square is  
10:47:34 10 where the card is going to show up. Now, when the finger  
10:47:37 11 lifts off the screen, there's -- that target is going to  
10:47:40 12 stay there for a little delay, and then the card -- or the  
10:47:44 13 character -- the Mega Knight in this case, will drop on to  
10:47:51 14 the battlefield.

10:47:51 15 So during this whole time, you've got this Elixir  
10:47:53 16 bar down at the bottom that represents how much magical  
10:47:57 17 energy you have. And -- and it's constantly growing. So  
10:48:00 18 you can see that throughout this entire process.

10:48:02 19 And now, the Mega Knight drops from the screen.  
10:48:09 20 There's a little clock. And after that clock expires, then  
10:48:12 21 he starts marching up the field and beating up the enemies.  
10:48:19 22 Q. All right. Thank you for that. I now want to turn to  
10:48:29 23 your opinions in this case.

10:48:32 24 MR. KOHM: If you could pull up Slide 3,  
10:48:34 25 Mr. Smith.

10:48:35 1 Q. (By Mr. Kohm) What is your opinion regarding  
10:48:41 2 non-infringement of the '137 and '481 patents?

10:48:43 3 A. Yes, it's -- first of all, that there's a required  
10:48:47 4 sequence of steps in order for there to be infringement.  
10:48:49 5 And Clash Royale doesn't perform that sequence. Mainly,  
10:48:53 6 that selection comes before subtraction, and subtraction  
10:48:57 7 comes before addition.

10:48:58 8 And, second, there's also a requirement -- and I'm  
10:49:01 9 reading from the claim now -- that the controller permits  
10:49:06 10 the player to select the game contents when the sum of the  
10:49:11 11 points of the player characters and/or the game content  
10:49:15 12 selected by the player is less than or equal to the upper  
10:49:17 13 limit.

10:49:17 14 But in Clash Royale, the game actually permits the  
10:49:20 15 player to select the game contents when the Elixir cost is  
10:49:24 16 greater than the player's available amount of Elixir.

10:49:29 17 So for both of those reasons, it's my opinion that  
10:49:33 18 Clash Royale does not infringe.

10:49:34 19 MR. KOHM: Your Honor, at this time I would ask  
10:49:36 20 that we seal the courtroom. We're going to be getting into  
10:49:40 21 some technical details of the operation of the source code  
10:49:43 22 for Supercell and the mechanics of it.

10:49:44 23 THE COURT: All right. At counsel's request, I'll  
10:49:47 24 order the courtroom sealed. Those present and not subject  
10:49:50 25 to the protective order that's been entered in this case

10:49:51 1 should exit the courtroom and remain outside until the  
10:49:54 2 courtroom is reopened and unsealed.

10:49:56 3 (Courtroom sealed.)

10:49:56 4 (This portion of the transcript is sealed and  
10:49:56 5 filed under separate cover as

10:49:57 6 Sealed Portion No. 3.)

11:12:49 7 (Courtroom unsealed.)

11:12:50 8 MR. KOHM: Can I continue?

11:12:53 9 THE COURT: Wait a minute, counsel. Let's wait  
11:12:55 10 until people get seated.

11:12:56 11 All right. The courtroom is unsealed.

11:12:58 12 You may now proceed.

11:13:00 13 MR. KOHM: Thank you, Your Honor.

11:13:01 14 Mr. Smith, if we could turn to Slide 5.

11:13:04 15 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:13:11 16 A. This is a -- sort of timeline sequence of the sequence  
11:13:15 17 of events that I depicted in the prior two flowcharts.

11:13:21 18 MR. KOHM: Will you please run it, Mr. Smith?

11:13:23 19 A. The arrow of time moves forward. That is from left to  
11:13:28 20 right. Addition is constantly -- addition of Elixir is  
11:13:31 21 constantly happening.

11:13:33 22 At one point, there's a phase where you're doing  
11:13:36 23 selection. That is the point in time where you're dragging  
11:13:38 24 your finger from the card in the hand to the battlefield  
11:13:41 25 and then letting it go.

11:13:42 1 And then later on, the subtraction and then card  
11:13:46 2 deployment occur. But the -- the real point here is that  
11:13:49 3 the addition of Elixir is happening constantly, including  
11:13:52 4 after selection and before subtraction.

11:13:58 5 MR. KOHM: And can we go to Slide 7, Mr. Smith?

11:14:02 6 Q. (By Mr. Kohm) And so what is your opinion,  
11:14:05 7 Mr. Friedman, regarding whether Clash Royale performs the  
11:14:11 8 selection and subtraction and addition sequence?

11:14:14 9 A. It does not perform it in that order as required by the  
11:14:18 10 construction. And so it's my opinion that Clash Royale  
11:14:20 11 does not infringe.

11:14:22 12 Q. Is there a dispute between you and Mr. Akl regarding  
11:14:27 13 the required sequence?

11:14:28 14 A. Not to my knowledge, no.

11:14:32 15 MR. KOHM: Go to Slide 8, please.

11:14:36 16 Q. (By Mr. Kohm) Do you recall Mr. Akl testifying  
11:14:40 17 regarding the sequence in this test -- in this trial?

11:14:42 18 A. I do.

11:14:46 19 MR. KOHM: And can we go to Slide 10, Mr. Smith?  
11:14:56 20 Just go to the end.

11:14:58 21 Q. (By Mr. Kohm) The labels you use in this slide, are  
11:15:10 22 those the labels that you're referring to of selection,  
11:15:17 23 subtraction, and addition in the patent?

11:15:18 24 A. That's correct.

11:15:23 25 Q. With respect to the conster -- I'm sorry, the loop we

11:15:26 1 were discussing earlier --

11:15:28 2 A. Yes.

11:15:28 3 Q. -- after a selection is made, where in this image would  
11:15:36 4 that loop take place?

11:15:37 5 A. Right. The -- the image that -- that we've got on the  
11:15:43 6 screen shows a blue bar for selection with an orange brace  
11:15:48 7 underneath it.

11:15:49 8 Conceptually, the beginning of that brace is when  
11:15:52 9 you first touch the card in the hand. In the end of that  
11:15:56 10 brace, is when you let it go in the field. And at that  
11:15:59 11 point, the player is done selecting the card because the  
11:16:03 12 claim requires that the player do the selection.

11:16:07 13 And then after that, we go through that whole  
11:16:09 14 process that we discussed. The game creates the -- first,  
11:16:12 15 it checks to see whether there's enough Elixir. Then it  
11:16:15 16 creates the message. Sends it to the server. And then it  
11:16:20 17 goes back to the phone.

11:16:21 18 And during that time, addition is constantly  
11:16:24 19 happening in that tick loop that we discussed.

11:16:27 20 MR. KOHM: If you go to Slide 12, Mr. Smith.

11:16:33 21 Q. (By Mr. Kohm) Which claims does your -- does your  
11:16:38 22 opinion implicate?

11:16:39 23 A. This -- this opinion implicates all of the asserted  
11:16:43 24 claims of both patents. It implicates Independent Claim 1  
11:16:47 25 and 14 of the '137 patent and Independent Claim 1 of the

11:16:54 1 '481. And as a result, Dependent Claims 2 and 15 of the  
11:16:59 2 '137 patent and 4 and 5 of the '481. It's all of them.

11:17:04 3 MR. KOHM: Next slide, Mr. Smith.

11:17:07 4 Q. (By Mr. Kohm) And what is your opinion regarding  
11:17:15 5 the -- I think you called it the Future Play feature?

11:17:18 6 A. Yes. So we took a look at the  
11:17:23 7 hasEnoughManaForDelayedCast function. That demonstrates  
11:17:25 8 that Clash Royale allows the player to select a card when  
11:17:28 9 the actual cost of the card is greater than the current  
11:17:31 10 amount of Elixir. And so for that reason, as well, it's my  
11:17:34 11 opinion that Clash Royale does not infringe.

11:17:38 12 MR. KOHM: And next slide, Mr. Smith.

11:17:40 13 Q. (By Mr. Kohm) What claims does that implicate?

11:17:43 14 A. That's also all of them because all the claims require  
11:17:46 15 either that the player is permitted to select when the --  
11:17:58 16 effectively the cost of the -- the card is less than or  
11:18:00 17 equal to the upper limit of the point.

11:18:02 18 Or, in the '481 patent when the -- the cost of the  
11:18:08 19 card is smaller than or less than. So it's actually two  
11:18:11 20 different tests. In one patent it's less than or equal to.  
11:18:15 21 In the other patent, it's just less than. But in both  
11:18:18 22 cases, in Clash Royale, you can select when it's greater  
11:18:22 23 than.

11:18:22 24 So for -- for that reason, all of the claims are  
11:18:24 25 not infringed.



11:18:25 1 Q. Thank you.

11:18:27 2 You also provided opinions regarding invalidity;  
11:18:31 3 is that correct?

11:18:31 4 A. I did.

11:18:32 5 Q. What -- are you familiar with the term "POSITA"?

11:18:37 6 A. Yes.

11:18:38 7 MR. KOHM: Mr. Smith, if we could pull up the  
11:18:41 8 first -- thank you.

11:18:44 9 Q. (By Mr. Kohm) What does POSITA mean?

11:18:45 10 A. A POSITA is an acronym -- stands for person of ordinary  
11:18:51 11 skill in the art. And it's -- it's -- you look at the  
11:18:54 12 question of whether a patent was obvious through the eyes  
11:18:57 13 of one of these people of ordinary skill in the art.

11:18:59 14 So you don't look at it now in terms of what you  
11:19:02 15 might think. You look at it at the time the patent was  
11:19:05 16 invented through the eyes of someone who was working in the  
11:19:07 17 field at that time -- this person of ordinary skill.

11:19:10 18 Q. Do you also look at the claims through the perspective  
11:19:14 19 of a POSITA for infringement analysis?

11:19:17 20 A. Yes.

11:19:18 21 Q. And what about anticipation?

11:19:21 22 A. My understanding of anticipation is that claim --  
11:19:28 23 sorry. A prior art reference has to directly disclose each  
11:19:34 24 and every element of a -- of a claim.

11:19:40 25 Q. And when you're making that determination, do you do

11:19:43 1 that through the eyes of a POSITA or someone else?

11:19:45 2 A. It's my understanding, it's through the eyes of a  
11:19:52 3 POSITA, yeah.

11:19:53 4 Q. Do you have an opinion regarding what a POSITA's  
11:19:57 5 qualifications are in this case?

11:19:58 6 A. Yes. At the time, basically what you're talking about  
11:20:01 7 is someone who was working in the gaming field who was  
11:20:04 8 making games.

11:20:05 9 So, generally speaking, they would have a degree  
11:20:09 10 in computer science or some level of software. They'd --  
11:20:11 11 they'd have been working in software engineering. They'd  
11:20:14 12 have been doing the code. They'd have been making games.  
11:20:16 13 They'd be familiar with the similar types of systems that  
11:20:16 14 are described to or contemporaneous to the patent itself.  
11:20:23 15 So we're talking about network gaming systems. They'd be  
11:20:27 16 familiar with card battle games because that's what the  
11:20:29 17 patent is directed to. They'd have game design and  
11:20:32 18 development experience.

11:20:34 19 MR. KOHM: Next slide, Mr. Smith.

11:20:36 20 Q. (By Mr. Kohm) How did you conduct your invalidity  
11:20:38 21 analysis?

11:20:39 22 A. I reviewed the -- the prior art -- or I -- I looked at  
11:20:48 23 prior art and basically went through prior art references,  
11:20:56 24 what was disclosed by things that had come before the  
11:20:59 25 patent. And I compared it to the claims of the patent to

11:21:05 1 see whether one or more of those prior art references, that  
11:21:10 2 is alone or in combination, disclosed all of the claimed  
11:21:13 3 features of a given patent claim.

11:21:16 4 Q. I see the word "anticipation" in this second bullet  
11:21:20 5 point. What is that?

11:21:20 6 A. It's my understanding that a patent is invalid by  
11:21:24 7 anticipation or anticipated if a single prior art reference  
11:21:28 8 by itself discloses all of the limitations in a claim.

11:21:34 9 Q. And I see "obviousness" in the next bullet. What is  
11:21:38 10 that?

11:21:39 11 A. So obviousness is the test that if there are multiple  
11:21:44 12 prior art references where not all of the elements of a  
11:21:48 13 claim are disclosed in one but they might together be  
11:21:52 14 disclosed by multiple, then you look at both of them  
11:21:54 15 together, and say, well, would it have been -- would the  
11:21:58 16 person of ordinary skill have been motivated to combine  
11:22:01 17 them to understand that combination as something that would  
11:22:06 18 make the patent obviousness? And so that's the test for  
11:22:10 19 obviousness.

11:22:12 20 MR. KOHM: Next slide, Mr. Smith.

11:22:14 21 Q. (By Mr. Kohm) What do we see in this slide?

11:22:17 22 A. These are -- these are the -- the cover pages of two  
11:22:24 23 documents that I have relied on for prior art. The first  
11:22:27 24 is a manual for computer game called Magic: The Gathering,  
11:22:32 25 which was released in 1997.

11:22:34 1 The second was a -- a manual for a computer game  
11:22:39 2 called BattleForge, which was released in 2009.

11:22:47 3 MR. KOHM: Mr. Smith, could we go to Slide 8,  
11:22:54 4 please -- Slide 7.

11:23:03 5 Q. (By Mr. Kohm) Mr. Friedman, do you have an opinion  
11:23:08 6 regarding whether Magic and BattleForge disclosed the  
11:23:14 7 limitations of -- I'm sorry, the preamble of Claim 1 of the  
11:23:20 8 '137 patent and the preamble of Claim 14 of the '137  
11:23:24 9 patent?

11:23:24 10 A. Yes, they do.

11:23:27 11 MR. KOHM: Mr. Smith, could we pull up DX-566,  
11:23:35 12 please? Thank you.

11:23:35 13 Q. (By Mr. Kohm) Does this relate to your opinion,  
11:23:40 14 Mr. Smith -- I mean, Mr. Friedman?

11:23:41 15 A. It does. This is the manual for Magic, and it  
11:23:46 16 discloses that there's going to be a platform on which  
11:23:50 17 players can play over the Internet. In other words, you've  
11:23:53 18 got to use a server because that's how the Internet works.  
11:23:56 19 You've got your machine. You're connected to the Internet.

11:24:01 20 MR. KOHM: Mr. Smith, can you pull up DX-957-1,  
11:24:13 21 please? No, I'm sorry, DX-957 at 1 -- I'm sorry, one of  
11:24:25 22 the manual, not one of the exhibit. There we go. Thank  
11:24:30 23 you. Thank you.

11:24:30 24 If you could focus in on Creating an Account --  
11:24:34 25 Creating an Account, sorry, not character. Great.

11:24:45 1 Actually I apologize, right above -- the paragraph  
11:24:47 2 above Creating an Account. Sorry. Thank you.

11:24:50 3 Q. (By Mr. Kohm) What do we see here, Mr. Friedman?

11:24:53 4 A. Yes. This is part of the manual for the BattleForge  
11:24:56 5 game. It talks about -- effectively that BattleForge  
11:24:59 6 requires an account to run. So you've got to create an  
11:25:02 7 account with Electronic Arts, the publisher of this game.

11:25:05 8 And then you can log in and -- and then play the  
11:25:09 9 game. So it's talking about, first, you install the game,  
11:25:12 10 then you have to go create your account, and -- well,  
11:25:16 11 that's what it's telling you.

11:25:18 12 Q. Okay.

11:25:19 13 MR. KOHM: Could we go to Page 4 of this exhibit,  
11:25:24 14 Mr. Smith?

11:25:27 15 Q. (By Mr. Kohm) What is being shown here, Mr. Friedman?

11:25:30 16 A. Yes, part of the -- the instruction manual discusses  
11:25:34 17 how -- basically how you go online and -- and play network  
11:25:38 18 games. It's disclosing that you can check to see which of  
11:25:42 19 your friends are online.

11:25:43 20 So this is a social feature. And you can also  
11:25:46 21 play online with -- with other players in  
11:25:51 22 player-versus-player matches.

11:25:53 23 MR. KOHM: And, Mr. Smith, can we go to the next  
11:25:57 24 demonstrative?

11:25:59 25 Q. (By Mr. Kohm) How does this tell you that the --

11:26:02 1 BattleForge and Magic meet the preamble of Claim 1 and  
11:26:07 2 Claim 14?  
11:26:07 3 A. Right. So the preamble simply talks about a server  
11:26:11 4 connected to a terminal device. The terminal device in  
11:26:13 5 this case would be the PC that you're playing these Windows  
11:26:18 6 games on. The server is what's out on the Internet that  
11:26:21 7 the game is connected to. Obviously, there's a  
11:26:23 8 communication line. That's what the Internet is. And  
11:26:25 9 these are battle games.

11:26:27 10 So together, and certainly in view of what one of  
11:26:31 11 ordinary skill in the art would have known at the time,  
11:26:33 12 these references disclose that the preambles of both  
11:26:38 13 Claims 1 and 14 were in the prior art.

11:26:40 14 Q. All right.

11:26:45 15 MR. KOHM: Let's go to Limitation 1a and 14a.

11:26:50 16 And, Mr. Smith, can you please pull up DX-566 at  
11:26:56 17 Page 9, and 652, if you can do them together? Thank you.  
11:27:01 18 Great.

11:27:02 19 Q. (By Mr. Kohm) All right. What do we see here,  
11:27:05 20 Mr. Friedman?

11:27:05 21 A. Yes. This is a description of the installation process  
11:27:09 22 for Magic: The Gathering. It talks about how you've got to  
11:27:13 23 install the game on your PC, you copy the files on your  
11:27:16 24 hard drive.

11:27:17 25 Obviously, when you're using a computer, that's

11:27:20 1 what a PC is. And it's -- the point of the game is to

11:27:23 2 display images on your screen, so here's a screenshot.

11:27:25 3 Q. Is there a controller disclosed here?

11:27:26 4 A. Yeah, so a Windows 95 -- a computer running Windows 95

11:27:32 5 would have a controller, namely a CPU or microprocessor as

11:27:37 6 part of it.

11:27:37 7 Q. What about information storage device?

11:27:40 8 A. Information storage device would be a hard disk.

11:27:46 9 Q. And would a computer have a hard disk?

11:27:48 10 A. Yes, your computer would have to have a hard disk in

11:27:53 11 order to install this game.

11:27:55 12 Q. All right. What would this -- is there anything here

11:27:57 13 that tells you that there would be a display of images of a

11:28:01 14 game on a terminal device?

11:28:02 15 A. Yes. So, first of all, the installation process refers

11:28:06 16 to a brief animation. One of ordinary skill would

11:28:10 17 understand that to just talk about animation on the screen.

11:28:13 18 And, second, there's a screenshot from a video

11:28:18 19 that represents the game being played.

11:28:20 20 So, again, these are video games. So there are

11:28:22 21 going to be displays on -- on a video screen.

11:28:30 22 MR. KOHM: Mr. Smith, can you pull up DX-957 at 1,

11:28:36 23 the same page we were at before? Great.

11:28:39 24 Q. (By Mr. Kohm) What is shown here?

11:28:40 25 A. This is the installation section for BattleForge, and

11:28:45 1 it's talking about very similar things to what we just  
11:28:49 2 described. Installing BattleForge on a PC, downloading the  
11:28:54 3 game, launching the application.

11:28:57 4 It would be understood that you download the game  
11:28:59 5 onto your computer, which would have a processor and a hard  
11:29:04 6 drive. And then would display images of the game on the  
11:29:06 7 screen.

11:29:09 8 MR. KOHM: And could we go to Page 9, Mr. Smith?

11:29:15 9 Q. (By Mr. Kohm) What is shown here?

11:29:16 10 A. That's a screenshot from the game as published in the  
11:29:20 11 manual.

11:29:20 12 Q. Would this be displayed on a computer?

11:29:23 13 A. Yes, that would be a computer screen -- screenshot.

11:29:31 14 Q. And what is your conclusion regarding -- regarding  
11:29:34 15 whether BattleForge and Magic practice Limitations 1a and  
11:29:40 16 1 -- I'm sorry, 14a of the '137 patent?

11:29:41 17 A. Yeah, it's my opinion that both BattleForge and Magic  
11:29:46 18 disclose that limitation for both of those claims.

11:29:52 19 Q. All right.

11:29:52 20 MR. KOHM: Can you pull up the next limitations,  
11:29:55 21 Mr. Smith?

11:30:03 22 Q. (By Mr. Kohm) Let's -- turning to Limitation 1c and  
11:30:07 23 14c --

11:30:09 24 MR. KOHM: Mr. Smith, can you pull up DX-566 at 65  
11:30:13 25 and 111, if you can.



11:30:15 1 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:30:21 2 A. So let's see, we are looking at the Magic manual. We  
11:30:28 3 have highlighted that there is a creature in play -- that  
11:30:32 4 is, there's a -- a -- a character on the battlefield. And  
11:30:38 5 it -- the manual is talking about how -- when you play  
11:30:42 6 cards in the Magic game, one of the kinds of cards that you  
11:30:45 7 can play acts to summon creatures onto the battlefield that  
11:30:50 8 can battle for you. So that's -- that's how Magic works.

11:30:53 9 Q. Is there any information on game content?

11:30:56 10 A. Right. So a game content has been construed by the  
11:31:00 11 Court to include character cards. And Magic demonstrates  
11:31:09 12 character cards.

11:31:10 13 You can see on the left side of the lower  
11:31:14 14 left-hand window, I guess, there's a card that represents  
11:31:17 15 Undead Knight. And then there's one in -- there's actually  
11:31:21 16 a handful in the lower hand -- where it says your hand,  
11:31:27 17 there's -- they're hard to see, but there's a bunch of them  
11:31:29 18 down there.

11:31:30 19 So these are the -- the character cards or the  
11:31:36 20 cards in general that -- that Magic uses.

11:31:38 21 Q. And would you have information on game content  
11:31:43 22 corresponding to each player character?

11:31:46 23 A. Yes. So the -- the way Magic works is you've got this  
11:31:52 24 deck of cards, and they represent spells. Some of the  
11:31:56 25 spells can summon characters. Some of the spells can do

11:31:59 1 direct damage. Some of the spells can do other things.

11:32:02 2 But some of those cards, the one that create or  
11:32:04 3 summon characters, those would be game contents  
11:32:08 4 corresponding to player characters.

11:32:10 5 Q. Thank you.

11:32:12 6 MR. KOHM: Mr. Smith, can you pull up DX-708?

11:32:19 7 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:32:29 8 A. This is a screenshot from a video of BattleForge being  
11:32:34 9 played. It depicts a row of cards across the bottom,  
11:32:41 10 and -- and it also depicts enemy and your own characters in  
11:32:46 11 the field. So your own characters are the ones sort of in  
11:32:49 12 the green bubbles with the green bars across the top.

11:32:53 13 There's some enemy characters up at the top of the screen  
11:32:56 14 with red hit bars being fired on by your cannons.

11:33:00 15 Q. So what would be information on a game content  
11:33:02 16 corresponding to each of the player characters?

11:33:04 17 A. So down at the bottom of the screen, those -- those  
11:33:07 18 cards are how you cast or how you summon your characters or  
11:33:15 19 your Armies onto the field of battle.

11:33:16 20 So the Armies that you see sort of arrayed in  
11:33:20 21 formation down in the lower right side of the screen in the  
11:33:24 22 green bubble, those are your troops that have been  
11:33:27 23 previously summoned onto the battlefield by playing those  
11:33:31 24 cards.

11:33:32 25 MR. KOHM: And, Mr. Smith, can you pull up DX-957

11:33:36 1 at 7.

11:33:37 2 Q. (By Mr. Kohm) What's shown here, Mr. Friedman?

11:33:39 3 A. These are the specific cards that are used in

11:33:41 4 BattleForge, the -- the game content.

11:33:47 5 Q. And so what's your opinion regarding whether

11:33:50 6 BattleForge and Magic disclose Claim Element 1c and 14c of

11:33:59 7 the '137 patent?

11:33:59 8 A. They do.

11:34:03 9 Q. I'm sorry -- I'm sorry, I -- I misspoke.

11:34:06 10 What's your opinion regarding whether Magic and

11:34:09 11 BattleForge disclose Claim Element -- well, I'm sorry -- I

11:34:18 12 apologize.

11:34:18 13 What's your opinion regarding whether Magic and

11:34:21 14 BattleForge disclose Claim 1b and Claim 14b of the '137

11:34:26 15 patent?

11:34:26 16 A. They -- they do disclose it, the references that I've

11:34:31 17 just gone through disclose the features of both Claims 1b

11:34:36 18 and 14b.

11:34:37 19 Q. Okay.

11:34:39 20 A. Yes.

11:34:40 21 Q. Look -- I want to -- turning to Claim 1c and 14c.

11:34:45 22 MR. KOHM: Mr. Smith, can you pull up DX-566 at

11:34:51 23 51?

11:34:58 24 Q. (By Mr. Kohm) Does what is shown here from Magic

11:35:01 25 disclose information on game content?

11:35:04 1 I'm sorry. I'm sorry.

11:35:07 2 Does the information disclosed here from Magic  
11:35:10 3 disclose a point set for each player characters and/or each  
11:35:16 4 of the game contents?

11:35:16 5 A. Yes, it does. The casting cost of the Magic card is  
11:35:24 6 described in the upper right corner. That little -- in  
11:35:28 7 this particular case, it's a little circle with a skull in  
11:35:31 8 it.

11:35:32 9 Q. And what is a casting cost?

11:35:34 10 A. A casting cost is -- well, in Magic, each card costs a  
11:35:39 11 certain amount of mana to play, so you have to pay that  
11:35:43 12 cost in order to play the card.

11:35:51 13 MR. KOHM: And Mr. Smith, if you could go to  
11:35:55 14 DX-957 at 6.

11:36:04 15 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:36:06 16 A. So this is a card in BattleForge, it's actually very  
11:36:09 17 similar to Magic in that it's showing you a character and  
11:36:12 18 then the cost to play it. Also, in the upper right corner.

11:36:17 19 I mean, these are very similar because one came after  
11:36:19 20 another. The -- the -- the power cost, in this case, the  
11:36:23 21 resource that you spend in BattleForge is called Power.

11:36:32 22 Q. Thank you.

11:36:43 23 MR. KOHM: Go to the next demonstrative,  
11:36:45 24 Mr. Smith.

11:36:46 25 Q. (By Mr. Kohm) Do you believe that Claim 1c and

11:36:51 1 Claim Element 14c are satisfied by Magic and BattleForge?

11:36:55 2 A. Yes, they are.

11:36:57 3 Q. One clean-up point -- just information storage device.

11:37:09 4 Do Magic and BattleForge disclose an information storage  
11:37:13 5 device?

11:37:13 6 A. Yes, they both disclose that the information storage  
11:37:16 7 device on your Windows computer, namely the hard drive  
11:37:22 8 where you install the game, is what stores the information  
11:37:27 9 that's claimed in Claims 1b and 14b.

11:37:38 10 Q. Turning to Claim 1e and 14e.

11:37:42 11 MR. KOHM: Mr. Smith, can you please pull up  
11:37:47 12 DX-566 at 111 -- no, I'm sorry, 151.

11:38:05 13 Q. (By Mr. Kohm) Mr. Friedman, does this from Magic  
11:38:08 14 disclose information on an upper limit of a point set for a  
11:38:14 15 battle for a predetermined battle event?

11:38:20 16 A. The image of the screen does not.

11:38:21 17 Q. Do you believe that there is an upper limit of a point  
11:38:28 18 set for the battle of a predetermined battle event in  
11:38:32 19 Magic?

11:38:32 20 A. Absolutely.

11:38:33 21 Q. Why?

11:38:33 22 A. Magic discloses a -- that you have a mana pool that  
11:38:39 23 over time, as -- as -- as you play turns, you can play what  
11:38:44 24 are called land cards. And those land cards can be tapped  
11:38:48 25 or harvested for mana. There are other ways to get mana,

11:38:55 1 as well, but the point is you have a pool of mana, and you  
11:38:59 2 can -- you can tap that mana to -- or, sorry, tap that --  
11:39:04 3 tap that resource pool to spend those resources on casting  
11:39:07 4 cards that then go into your battlefield or create other  
11:39:12 5 spell effects.

11:39:13 6 Q. Casting Cost is highlighted on the slide. Does that  
11:39:16 7 relate to point set?

11:39:17 8 A. That is the point set -- yes, that is the point of a  
11:39:21 9 game content, that's correct.

11:39:29 10 MR. KOHM: Mr. Smith, can we go to 95 -- DX-957 at  
11:39:36 11 6, please?

11:39:37 12 Q. (By Mr. Kohm) Does anything from this image of  
11:39:44 13 BattleForge lead you to believe that Limitation 1e and 14e  
11:39:49 14 are disclosed?

11:39:50 15 A. Sure. The -- the -- the power cost for casting the --  
11:40:01 16 the card that's on the screen, in this case the Fallen  
11:40:08 17 Skyelf, is in the context of the remainder of the manual.  
11:40:11 18 The way you play cards in BattleForge is very similar. You  
11:40:14 19 have a pool of available power.

11:40:18 20 In BattleForge, it actually grows over time, sort  
11:40:22 21 of constantly. But -- but, in this case, you spend that  
11:40:25 22 power to put these troops of these cards on to the field.

11:40:36 23 MR. KOHM: And if we could jump along to DX-566,  
11:40:42 24 please, at 111.

11:40:45 25 Q. (By Mr. Kohm) And this is from Magic?

11:40:48 1 A. That's correct. This is the -- the manual for Magic,  
11:40:51 2 and the mana pool that I referred to earlier is highlighted  
11:40:55 3 in yellow in the lower left corner.

11:41:08 4 MR. KOHM: And if we could go to DX-566 at 115.

11:41:17 5 Q. (By Mr. Kohm) What is shown here?

11:41:23 6 A. Right. This is also from the Magic manual. It talks  
11:41:26 7 about the process of selecting a spell to cast. So it says  
11:41:30 8 once you've picked the card that you want to play, you have  
11:41:32 9 to pay for that card by spending the mana that's in your  
11:41:36 10 mana pool.

11:41:40 11 Q. All right.

11:41:47 12 MR. KOHM: And if we could go to DX-708, please.

11:41:59 13 No, it's -- oh, yes, that's -- if you could zoom in on the  
11:42:06 14 50, please.

11:42:08 15 Q. (By Mr. Kohm) What are we seeing here?

11:42:10 16 A. This is a screenshot from the video of BattleForge, and  
11:42:13 17 the 50 in the big oval at the top of the screen represents  
11:42:18 18 your current power at this point in the game. And then  
11:42:21 19 there are two arrows. And it's a little blurry.

11:42:25 20 But what you see is two sources of power that are  
11:42:28 21 going into that current power. In other words, they're not  
11:42:31 22 there yet, but that represents the -- the rate of flow of  
11:42:36 23 power that you're currently generating from the sources in  
11:42:39 24 the game.

11:42:43 25 Q. All right.

11:42:44 1 MR. KOHM: If we could go to the next

11:42:45 2 demonstrative, Mr. Smith.

11:42:47 3 Q. (By Mr. Kohm) So I want to do a real quick

11:42:51 4 run-through --

11:42:51 5 MR. KOHM: Sorry, Your Honor.

11:42:52 6 Q. (By Mr. Kohm) Looking to Claim 1d, what would be the

11:42:55 7 point set for each player of the player characters and/or

11:42:59 8 each of the game contents in Magic?

11:43:02 9 A. In Magic that's the casting cost in mana for each card.

11:43:07 10 Q. What about BattleForge?

11:43:08 11 A. It's the power cost for each card.

11:43:11 12 Q. And turning to Claim limitation 1e, what would be the

11:43:11 13 information of an upper limit of a point set for a battle

11:43:18 14 with a predetermined battle event in Magic?

11:43:18 15 A. In Magic, that would be the amount of mana in the mana

11:43:21 16 pool.

11:43:22 17 Q. Okay. And what would meet Claim 1e and 14e for

11:43:27 18 BattleForge?

11:43:28 19 A. For BattleForge, that would be the amount of power in

11:43:30 20 your power meter up at the top of the screen in that oval

11:43:33 21 that we saw.

11:43:35 22 Q. Okay.

11:43:35 23 MR. KOHM: Mr. Smith, could we go to the next

11:43:39 24 limitations?

11:43:40 25 Q. (By Mr. Kohm) And turning to Claim 1f and 14f.



11:43:45 1 MR. KOHM: Could we go to DX-566, again, at 111?

11:43:50 2 Q. (By Mr. Kohm) Is there a controller that's displaying  
11:44:03 3 a plurality of game contents in this first field here?

11:44:08 4 A. That's right. The controller is your PC in this case,  
11:44:11 5 and the hand of cards is shown in -- well, highlighted in  
11:44:15 6 yellow. This is a page out of the manual from Magic.

11:44:18 7 Q. And is the player able to select that game content?

11:44:22 8 A. That's right. That's the way you play the game is you  
11:44:25 9 go through -- it's really a scrolling menu of available  
11:44:28 10 cards, and you can click on one, drag it or play it on to  
11:44:32 11 the field.

11:44:33 12 Q. All right.

11:44:33 13 MR. KOHM: Pull up Page 114, please.

11:44:39 14 Q. (By Mr. Kohm) What is shown here?

11:44:41 15 A. This is further instruction on how to interact with the  
11:44:45 16 hand window. So it's noting that it's a small window  
11:44:49 17 floating over the territory -- territory is where you play  
11:44:52 18 the cards -- and this represents the hand of cards.

11:44:56 19 So the analogy is when you're playing the physical  
11:44:58 20 game, the actual physical game of Magic, you're holding the  
11:45:03 21 hand of cards. This is the computer implementation of  
11:45:06 22 that.

11:45:07 23 And it talks about how you can move the window  
11:45:09 24 around. You're going to want to do that if the battlefield  
11:45:11 25 gets really complicated because you can have cards

11:45:15 1 everywhere. So you can just drag the hand out of the way.

11:45:18 2 Q. Thank you.

11:45:20 3 MR. KOHM: Can we pull up DX-708, please?

11:45:24 4 Q. (By Mr. Kohm) And in BattleForge, what would be the  
11:45:28 5 controller displaying a plurality of the game contents in  
11:45:34 6 the first field?

11:45:34 7 A. Right. So at the bottom of the screen is the list of  
11:45:37 8 available cards to play. It's --

11:45:40 9 MR. KOHM: Mr. Smith, are you able to hide your  
11:45:43 10 controller? Thank you.

11:45:47 11 A. Perfect.

11:45:48 12 Yes, there's -- there's a list of all the cards  
11:45:50 13 that are available for the players. Some of them can be  
11:45:54 14 selected based on their sort of full height, and you can  
11:45:57 15 see them all, and others are sort of tucked down behind the  
11:46:01 16 bottom of the screen, and so you can't play those.

11:46:04 17 Q. And does this enable a player to select at least one  
11:46:07 18 desired king -- game content from a plurality of game  
11:46:11 19 contents to attack?

11:46:12 20 A. That's right. There's a plurality, obviously, at the  
11:46:15 21 bottom, and the ones that are ticked up and have the full  
11:46:20 22 color in them, those are the ones that you can select.

11:46:23 23 Q. What are the enemy characters here?

11:46:25 24 A. Oh, the enemy characters are your opponents in the  
11:46:28 25 game. At the very top of the screen, sort of hidden in a

11:46:32 1 cloud of magical explosions are some enemy troops that are  
11:46:38 2 coming to attack your base. So your towers are firing on  
11:46:41 3 them. You see these little white comets heading towards  
11:46:46 4 them.

11:46:46 5 Q. And what about Magic, who area -- what are the enemy  
11:46:48 6 characters in Magic?

11:46:49 7 A. Oh, in Magic, the enemy characters are the characters  
11:46:53 8 that the opponent's players summon onto the battlefield.  
11:46:56 9 So you and your opponent are both summoning features onto  
11:47:00 10 the battlefield.

11:47:01 11 MR. KOHM: All right. Move on to the next  
11:47:03 12 demonstrative, Mr. Smith.

11:47:05 13 Q. (By Mr. Kohm) Turning to Limitation -- do you believe  
11:47:10 14 Limitation 1f and 14f are met by Magic and BattleForge?

11:47:15 15 A. Yes, I do, for both claims and for both references.

11:47:18 16 Q. Okay. Moving on to 1g and 14g.

11:47:22 17 MR. KOHM: Mr. Smith, can you pull up DX-566 at 65  
11:47:28 18 and 115, please?

11:47:31 19 Q. (By Mr. Kohm) And does this show that when a -- that  
11:47:41 20 the controller permits a player to select the game content  
11:47:41 21 when a sum of the points of a player characters and/or game  
11:47:48 22 content selected by the player is less or equal than -- or  
11:47:51 23 equal two the upper limit of the point?

11:47:54 24 A. Right. Yes, it does. The upper limit of the point in  
11:47:59 25 Magic is the player's mana. And the point is the cost to

11:48:05 1 play the card.

11:48:07 2 And so, here, in Magic, what you have is the mana  
11:48:10 3 cost of a card. You have to be able to afford the mana  
11:48:15 4 cost of the card in order to play it.

11:48:16 5 Q. And at the very bottom, it says: You must draw enough  
11:48:21 6 mana from your mana pool, land in play, or other  
11:48:27 7 mana-producing cards to power the spell.

11:48:29 8 What does that mean?

11:48:31 9 A. Right. So there are actually numerous sources of  
11:48:36 10 magical power or mana in the game, Magic: The Gathering.

11:48:37 11 One source of power is you have that mana pool  
11:48:40 12 that we've already talked about. Lands in play can be  
11:48:46 13 harvested or what are called tapping -- turn the card  
11:48:48 14 sideways, and that produces a mana which then goes into  
11:48:51 15 your mana pool.

11:48:51 16 There are other mana-producing cards. For  
11:48:53 17 example, there's a card called Dark Ritual where you play  
11:48:55 18 it, its cost is one black mana, and it generates three  
11:48:59 19 black mana.

11:49:00 20 So there -- there are cards, for example, that --  
11:49:04 21 there's another card Llanowar Elves where if you tap it, it  
11:49:10 22 creates a green mana. So there -- there are sources of  
11:49:14 23 mana that aren't just the lands that you have in play.

11:49:16 24 Q. Thank you.

11:49:16 25 MR. KOHM: Dr. -- Mr. Smith, can you pull up

11:49:19 1 DX-708 again at -- just the screen of 840?

11:49:28 2 Q. (By Mr. Kohm) This screenshot from BattleForge, is it  
11:49:31 3 showing the ability -- or, sorry, showing a controller  
11:49:34 4 permitting the display of a plurality of game contents in  
11:49:38 5 the first field of a terminal device so that the player can  
11:49:41 6 select the desired game content?

11:49:43 7 A. Yes, it does. At the bottom of the screen, you see  
11:49:46 8 some of the cards are available to play because they're not  
11:49:49 9 grayed out. And those are the ones that currently are able  
11:49:54 10 to be afforded based on -- if you look at the upper right  
11:49:58 11 corner of the screen, you see the 84 in the bubble.  
11:50:00 12 That's -- the prior screen we saw was 50, but power in  
11:50:05 13 BattleForge has grown to 84 in -- in this particular  
11:50:08 14 screenshot.

11:50:09 15 Q. And when a sum of the points is selected -- I'm sorry.  
11:50:13 16 Does this also disclose 1g and 14g -- when the sum of the  
11:50:20 17 points of a player characters and game content selected by  
11:50:23 18 the player is less to or equal than the upper limit?

11:50:27 19 THE COURT: You know, Mr. Kohm, if you're going to  
11:50:29 20 mumble and you're going to do it so fast that the court  
11:50:33 21 reporter can't write it down, it's not going to help  
11:50:35 22 anybody.

11:50:35 23 MR. KOHM: Understood, Your Honor.

11:50:36 24 THE COURT: Be mindful of the record, please.

11:50:38 25 How much -- how much do you anticipate the

11:50:39 1 remainder of your direct to be time-wise?

11:50:41 2 MR. KOHM: 10 -- 10 minutes.

11:50:42 3 THE COURT: All right. Let's see if we can't move  
11:50:45 4 along.

11:50:46 5 MR. KOHM: Okay.

11:50:48 6 Q. (By Mr. Kohm) Mr. Friedman, looking at 708 -- DX-708

11:51:01 7 at 840, anything here tell you that -- or disclose the

11:51:06 8 concept of a controller allowing you to select a player if  
11:51:10 9 you have enough mana?

11:51:11 10 A. Yes. In this case, it's the power. But, yeah,

11:51:15 11 BattleForge does disclose that you can play a card if you  
11:51:17 12 can afford its cost, yes.

11:51:20 13 Q. All right.

11:51:20 14 MR. KOHM: Next slide, Mr. Smith.

11:51:24 15 Q. (By Mr. Kohm) Does this -- do you believe Claim

11:51:27 16 Elements 1g and 14g are -- are met by those two games --

11:51:32 17 I'm sorry, by BattleForge and Magic?

11:51:34 18 A. Yes, I believe that both Claims 1 and 14, Element g,

11:51:40 19 are met -- are shown by both Magic and -- and BattleForge.

11:51:44 20 Q. All right.

11:51:44 21 MR. KOHM: Could we pull up 14h, please,

11:51:47 22 Mr. Smith?

11:51:50 23 Q. (By Mr. Kohm) Is this the subtraction -- I'm sorry,

11:51:53 24 selection before subtraction before addition limitation we

11:51:57 25 talked about?

11:51:58 1 A. Yeah, that -- the language here talks about  
11:52:02 2 sequentially subtracting the point of the selected game  
11:52:08 3 content and then adding a predetermined amount to the upper  
11:52:12 4 limit. So this is the required order.

11:52:13 5 MR. KOHM: And, Mr. Smith, can you pull up DX-566?

11:52:17 6 Q. (By Mr. Kohm) Does Magic disclose that limitation?

11:52:21 7 A. It does. The first two steps are disclosed here.

11:52:24 8 First, you select a card to cast, and then you use mana to  
11:52:27 9 pay for that casting cost.

11:52:29 10 Q. All right.

11:52:30 11 MR. KOHM: Pull up 708 at 840, again, Mr. Smith.

11:52:36 12 Q. (By Mr. Kohm) Does BattleForge disclose that  
11:52:38 13 limitation?

11:52:38 14 A. It does. This is a screenshot from the game. When you  
11:52:44 15 play a card, it's mana -- not mana. In this case power --  
11:52:50 16 its power cost is subtracted from the meter at the top of  
11:52:53 17 the screen.

11:52:55 18 Q. All right.

11:52:55 19 MR. KOHM: Mr. Smith, if we could pull up the  
11:52:58 20 demonstrative with Claim 2 and Claim 15. Next one, please.  
11:53:02 21 Great.

11:53:02 22 Q. (By Mr. Kohm) With respect to Dependent Claims 2 and  
11:53:12 23 15, Mr. Friedman --

11:53:17 24 MR. KOHM: Mr. Smith, can you pull up DX-566 at 78  
11:53:20 25 and 115.

11:53:22 1 Q. (By Mr. Kohm) Can you tell me whether Magic discloses  
11:53:26 2 those dependent claims?

11:53:27 3 A. Yes, absolutely. So when you play a card in Magic, you  
11:53:31 4 take it out of your hand, and you put it onto the field.  
11:53:34 5 And then later on, there's an opportunity to draw a card  
11:53:37 6 back into your hand. So it does disclose both of those  
11:53:42 7 steps.

11:53:53 8 MR. KOHM: And, Mr. Smith, can you pull up -- or  
11:53:56 9 maybe --

11:53:57 10 Q. (By Mr. Kohm) Does BattleForge also disclose those --  
11:53:59 11 those -- those dependent claims?

11:54:00 12 A. BattleForge discloses that when you play a card, it can  
11:54:05 13 become disabled, and so it kind of tucks down behind. And  
11:54:09 14 so it's not really available to play anymore. And after  
11:54:12 15 awhile, it regains its charge and pops back into  
11:54:16 16 selectability.

11:54:17 17 Q. Would you consider BattleForge and Magic together  
11:54:20 18 practicing Claim 2 and Claim 15?

11:54:23 19 A. Well, I think certainly, and also in combination with  
11:54:27 20 the knowledge of one of skill in the art, what we're  
11:54:29 21 talking about here is playing a card from your hand and  
11:54:32 22 drawing a replacement. So that was obviously well-known at  
11:54:45 23 the time.

11:54:45 24 MR. KOHM: All right. Could we jump to a slide  
11:54:52 25 with the '481 patent and '137 patent, Mr. Smith? Two more.



11:55:06 1 Q. (By Mr. Kohm) Mr. Friedman, would you please walk me  
11:55:12 2 through what you believe meets the claim limitations of 1a,  
11:55:19 3 i, ii, iii, iv, and v of the '481 patent?

11:55:23 4 A. Right. So we've already actually discussed all of the  
11:55:26 5 features in the '481 patent for Element 1a because they  
11:55:32 6 correspond to features that we've looked at for Claim 1 of  
11:55:36 7 the '137 patent. And they're labeled here sort of as a  
11:55:39 8 side-by-side comparison.

11:55:43 9 But, for example, the fact that you have a server  
11:55:45 10 and memory -- or storage unit on your computer, as well,  
11:55:51 11 is -- is a disclosure of the information storage device or  
11:55:53 12 a storage unit.

11:55:56 13 The creatures that you summon from the cards that  
11:55:59 14 you play in Magic are information on plural kinds of player  
11:56:03 15 characters. The card itself that represents those  
11:56:05 16 characters is information on the game content. The power  
11:56:10 17 and toughness -- this -- so this is actually new in the  
11:56:15 18 '481 patent. It doesn't have a corresponding limitation in  
11:56:17 19 the '137. This talks about information in a first  
11:56:22 20 parameter value related to the battle.

11:56:26 21 And in Magic, each card has both sort of an attack  
11:56:31 22 value, which they call power, and a defensive power, which  
11:56:34 23 they call toughness. And we'll see that in the -- we've  
11:56:36 24 already seen it in the corner of the -- each card, but --  
11:56:39 25 so that's disclosed by Magic, as well.

11:56:42 1 And then we get back to the second parameter  
11:56:44 2 value. That's equivalent to the point set. That is the  
11:56:47 3 cost to play each card.

11:56:49 4 And then the third parameter value in the '481  
11:56:51 5 patent is equivalent to the upper limit of the point, which  
11:56:54 6 is the available mana in the case of Magic.

11:57:02 7 Q. All right.

11:57:03 8 MR. KOHM: Mr. Smith, can you go to the slide with  
11:57:09 9 Claim Element 1b of the '481 highlighted?

11:57:18 10 Q. (By Mr. Kohm) So looking at '4 -- the '481 patent,  
11:57:21 11 Claim 1ai through 1v, what is your opinion regarding Magic  
11:57:34 12 and BattleForge?

11:57:34 13 A. It's my opinion that both of those games disclose all  
11:57:38 14 of those features.

11:57:39 15 Q. And do they all -- do both of them disclose a storage  
11:57:42 16 unit that stores those features?

11:57:44 17 A. Yes, that would be installed on -- on the PC that  
11:57:47 18 you're playing the game on.

11:57:50 19 Q. Okay. Looking at a display processing unit that  
11:57:58 20 displays a plurality of game contents in a first field --  
11:58:03 21 have we discussed that concept yet?

11:58:06 22 A. A display process -- no, we have not.

11:58:09 23 Q. All right.

11:58:09 24 MR. KOHM: If we could turn to DX-566, please, at  
11:58:11 25 111.

11:58:13 1 Q. (By Mr. Kohm) Does Magic disclose such a processing  
11:58:16 2 unit?

11:58:16 3 A. Well, Magic discloses that it's a video game on your  
11:58:20 4 PC. So in order for you to display things, you've got to  
11:58:23 5 have a display processing unit.

11:58:25 6 MR. KOHM: And if we could go to Exhibit 708  
11:58:28 7 again.

11:58:29 8 Q. (By Mr. Kohm) What about BattleForge?

11:58:30 9 A. Same thing. It's a computer game. You display images  
11:58:33 10 on your screen.

11:58:39 11 MR. KOHM: The next slide, Mr. Smith.

11:58:43 12 Q. (By Mr. Kohm) What about Claim Element 1c, is that  
11:58:45 13 disclosed by Magic?

11:58:46 14 A. Yes, it is. So Magic uses the mouse and the keyboard  
11:58:50 15 as input receiving units.

11:58:52 16 MR. KOHM: Mr. Smith -- I'm sorry, could we pull  
11:58:54 17 up DX-566 at 60?

11:59:00 18 Q. (By Mr. Kohm) Please continue.

11:59:01 19 A. Yes, this -- this is a section of the manual that talks  
11:59:04 20 about clicking and dragging on the screen using the mouse  
11:59:08 21 to interact with the game.

11:59:10 22 Q. What about BattleForge?

11:59:12 23 A. BattleForge discloses the same thing. Click the cards  
11:59:15 24 at the bottom of the screen with your mouse and then drag  
11:59:19 25 them to the battlefield to deploy them.

11:59:22 1 MR. KOHM: And next slide, Mr. Smith.

11:59:25 2 Q. (By Mr. Kohm) What about a control unit that removes  
11:59:29 3 game content, Claim Element 1d? Does Magic disclose that?

11:59:36 4 A. It does, yes. So these sort of four steps, the control  
11:59:40 5 unit has to do the removal. That's when you take the card  
11:59:43 6 out of your hand and put it on the screen. It updates the  
11:59:47 7 first field with a new game content.

11:59:49 8 That is when you draw a new card, and then it --  
11:59:52 9 the other two limitations sequentially subtracts the second  
11:59:56 10 parameter and adds a predetermined amount. Those we've  
11:59:59 11 already talked about. That's when you spend the mana and  
12:00:02 12 then when you get more mana. So Magic discloses all of  
12:00:06 13 that.

12:00:09 14 MR. KOHM: And could you pull up DX-566 at 78 and  
12:00:16 15 115, please?

12:00:16 16 Q. (By Mr. Kohm) Does this -- what is this showing?

12:00:19 17 A. This is talking about casting a card. You've cast a  
12:00:22 18 permanent spell, so the card is out of your hand. It's on  
12:00:27 19 the battlefield. It stays there. And so how you cast that  
12:00:30 20 spell is by paying its mana costs.

12:00:33 21 MR. KOHM: And, Mr. Smith, can we go to Page 130.

12:00:36 22 Q. (By Mr. Kohm) What --

12:00:38 23 MR. KOHM: 130, please.

12:00:44 24 Q. (By Mr. Kohm) What is shown here?

12:00:45 25 A. This is describing how you can draw a card into your

12:00:48 1 hand.

12:00:51 2 MR. KOHM: And 53 and 51, please, Mr. Smith.

12:01:01 3 Q. (By Mr. Kohm) And what is the manual showing here?

12:01:04 4 A. This -- these sections of the manual are talking about  
12:01:07 5 how mana is generated. Tapping a land, like I say, is one  
12:01:13 6 way, but not all -- not all mana sources are lands. So  
12:01:18 7 this is another example of a way to generate mana.

12:01:20 8 You can tap a card called Llanowar Elves. I  
12:01:20 9 talked earlier about the Dark Ritual card, which when you  
12:01:33 10 cast it, it directly generates mana -- mana.

12:01:33 11 THE COURT: Ladies and gentlemen, we're going to  
12:01:36 12 break for lunch at this point. We'll finish this direct  
12:01:38 13 examination after we come back from lunch.

12:01:41 14 If you'll take your notebooks with you to the jury  
12:01:43 15 room. The clerk's office has advised that your lunch is  
12:01:46 16 there and waiting on you.

12:01:46 17 Follow all my instructions, including not to  
12:01:48 18 discuss the case among each other, and we'll reconvene  
12:01:50 19 hopefully before 1:00 o'clock.

12:01:52 20 The jury is excused for lunch at this time.

12:01:55 21 COURT SECURITY OFFICER: All rise.

12:01:55 22 (Jury out.)

12:01:56 23 THE COURT: Counsel, I will want you available in  
12:02:23 24 chambers by 12:30 to look at what remains as far as witness  
12:02:28 25 demonstrative disputes that were not covered this morning,

12:02:32 1 because my directives to have them to the Court by  
12:02:35 2 7:00 a.m. didn't come in until 7:30, and then when I got --  
12:02:39 3 had no numbers on it corresponding to your written  
12:02:43 4 objections.

12:02:44 5 So as we've done all day today, we will try to  
12:02:47 6 take these up on-the-fly as we go, rather than delay trial.  
12:02:53 7 But take 30 minutes for lunch, and then be available at  
12:02:55 8 chambers by 12:30.

12:03:00 9 We stand in recess.

12:30:31 10 (Recess.)

11

12

#### CERTIFICATION

13

14 I HEREBY CERTIFY that the foregoing is a true and  
15 correct transcript from the stenographic notes of the  
16 proceedings in the above-entitled matter to the best of my  
17 ability.

18

19 /S/ Shelly Holmes  
20 SHELLEY HOLMES, CSR, TCRR  
OFFICIAL REPORTER  
State of Texas No.: 7804  
12:31:12 21 Expiration Date: 12/31/20

9/15/2020  
Date

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23

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